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

## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION REGULATION (EU) No 627/2011

of 27 June 2011

**imposing a provisional anti-dumping duty on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> ('the basic Regulation'), and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

## A. PROCEDURE

## 1. Initiation

- (1) On 30 September 2010, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union* <sup>(2)</sup>, the initiation of an anti-dumping proceeding with regard to imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China ('PRC' or the 'country concerned').
- (2) The proceeding was initiated as a result of a complaint lodged on 16 August 2010 by the Defence Committee of the Seamless Stainless Steel Tubes Industry of the European Union ('the Defence Committee') on behalf of two groups of Union producers ('the complainants') representing a major proportion, in this case more than 50 %, of the total Union production of seamless pipes and tubes of stainless steel. The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

## 2. Parties concerned by the proceeding

- (3) The Commission officially advised the complainant, other known Union producers, the known exporting producers and the representatives of the PRC, known importers, suppliers and users, as well as their associations, of the initiation of the proceeding. The Commission also advised producers in the United States ('the USA') as it was envisaged as a possible analogue country. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (4) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (5) In view of the apparent high number of exporting producers, unrelated importers and Union producers, sampling was envisaged in the notice of initiation for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers, importers and Union producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product under investigation during the investigation period from 1 July 2009 to 30 June 2010. The authorities of the PRC were also consulted.
  - (a) Sampling of Chinese exporting producers
- (6) Out of the 31 Chinese exporting producers or groups of exporting producers which came forward, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of exports which could reasonably be investigated within the time available. The sample selected consisted of three (groups of) companies, representing 25 % of the total imports recorded in Eurostat during the IP and over 38 % of the total volume of the

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

<sup>(2)</sup> OJ C 265, 30.9.2010, p. 10.

cooperating exporters in the IP. In accordance with Article 17(2) of the basic Regulation, the parties concerned and the Chinese authorities were consulted but raised no objections to the proposed sample.

#### (b) Sampling of Union producers

- (7) Out of the 21 Union producers that the Commission contacted, eleven provided the requested information and agreed to be included in the sample. On the basis of the information received from these cooperating Union producers, the Commission selected a sample of two groups representing five Union producers. The sample was selected on the basis of volumes of sales and production. The sampled Union producers accounted for 48 % of total EU sales of all Union producers, and for 80 % of the producers who came forward.
- (8) From the 62 unrelated importers that the Commission contacted, only five companies replied to the sampling questions within the deadline. Therefore it was considered that no sampling was necessary, and questionnaires were sent to all these companies. Eventually, only two importers replied to the questionnaire and cooperated fully in the investigation.

#### (c) Questionnaire replies and verifications

- (9) In order to allow sampled exporting producers in the PRC to submit a claim for market economy treatment ('MET') or individual treatment ('IT'), if they so wished, the Commission sent claim forms to the sampled exporting producers. All groups of exporting producers requested MET pursuant to Article 2 (7) of the basic regulation or IT should the investigation establish that they did not meet the conditions for MET.
- (10) Three (groups of) companies requested individual examination. The examination of these claims at provisional stage was unfeasible within the time framework. A decision whether individual examination will be granted to any of these companies will be taken at definitive stage.
- (11) The Commission officially disclosed the results of the MET findings to the sampled exporting producers concerned in the PRC as well as to the sampled Union producers.
- (12) Questionnaire replies were received from the sampled exporting producers in the PRC, from all sampled Union producers, two unrelated Union importers and one user.
- (13) The Commission sought and verified all the information deemed necessary for the purpose of analysing MET or IT

and for a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following companies.

#### *Exporting producers in the PRC*

- Changshu Walsin Specialty Steel Co., Ltd., Haiyu Town, Changshu City and its related companies: Shanghai Baihe Walsin Lihwa Specialty Steel Products Co., Ltd., Baihe Town, Qingpu District, Shanghai; Yantai Jin Cheng Precision Wire Rod Co., Ltd., ETDZ Yantai City, Shandong Province; Yantai Dazhong Recycling Resource Co., Ltd., ETDZ Yantai City, Shandong Province;
- Shanghai Jinchang Stainless Steel Tube Manufacturing Co., Ltd., Situan Town, Fengxian District, Shanghai and its related companies: Shanghai Jinchang International Trade Co., Ltd., Situan Town, Fengxian District, Shanghai; Shanghai Jinchang international trading Chongqing Co., Ltd., Jieshi Town, Banan District, Chongqing;
- Wenzhou Jiangnan Steel Pipe Manufacturing Co., Ltd., Yongzhong, Longwan district, Wenzhou.

#### *Union producers*

- Salzgitter Mannesmann Stainless Tubes Headquarters; Mülheim an der Ruhr, Germany;
- Salzgitter Mannesmann Stainless Tubes Deutschland; Remscheid, Germany;
- Tubacex Tubos Inoxidables, S.A., Llodio, Spain.

#### *Producers in the analogue country*

- PEXCO, Scranton, Pennsylvania;
- Salem Tube, Greenville, Pennsylvania;
- Salzgitter Mannesmann Stainless Tubes USA, Houston, Texas;
- Sandvik Materials Technology, Scranton, Pennsylvania.

### 3. Investigation period

- (14) The investigation of dumping and injury covered the period from 1 July 2009 to 30 June 2010 ('investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 2006 to the end of the investigation period ('period considered').

## B. PRODUCT CONCERNED AND LIKE PRODUCT

### 1. Product concerned

- (15) The product concerned as described in the Notice of initiation is certain seamless pipes and tubes of stainless steel, other than with attached fittings suitable for conducting gases or liquids for use in civil aircraft, currently falling within CN codes 7304 11 00, 7304 22 00, 7304 24 00, ex 7304 41 00, 7304 49 10, ex 7304 49 93, ex 7304 49 95, ex 7304 49 99 and ex 7304 90 00 ('the product concerned'). This includes unfinished 'hollows', hot-finished products and cold-finished products.
- (16) The production process usually uses cylinders ('billets') of stainless steel as raw material. In the first production step, an unfinished 'hollow' is produced using either an extrusion press or a hot piercing process. Subsequently, the hollow can be first processed by a hot-finishing process resulting in a hot-finished pipe and further processed by a cold-finishing process (cold pilger process) or by a cold drawing process, resulting in a cold-finished pipe. All types of products (hollows, hot-finished and cold-finished pipes) share the same basic physical, chemical and technical characteristics and same basic uses.
- (17) Stainless seamless pipes and tubes are mainly used in the following industries: chemical and petrochemical industries, fertiliser production, power generation, civil engineering and construction, pharmacology and medical technologies, biotechnology, water treatment and waste incineration, oil and gas exploration and production, coal and gas processing, food processing.
- (18) One Union producer, which further processes stainless steel tubes, claimed that in case measures were to be imposed the CN code 7304 49 10 should be excluded from their scope because it covered unfinished hollows used only for further processing. However, the investigation showed that both the Union and the Chinese suppliers of that Union producer declared the goods sold to this producer as hot finished or cold finished goods.
- (19) Indeed the declaration of those products as 'unworked hollows for use solely in the manufacture of tubes and pipes with other cross-sections and wall thicknesses' concerns goods which do not necessarily have different physical characteristics, they merely have a different use. It was provisionally concluded that there were no grounds to exclude 'unworked hollows' from the product definition.

### 2. Like product

- (20) The product concerned and certain seamless pipes and tubes of stainless steel sold on the domestic market in the PRC as well as certain seamless pipes and tubes of stainless steel sold in the Union by the Union industry were found to have the same basic physical, chemical and technical characteristics and the same basic uses. They are therefore, provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

## C. DUMPING

### 1. Market economy treatment

- (21) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet all the criteria laid down in Article 2(7)(c) of the basic Regulation.
- (22) Briefly, and for ease of reference only, these criteria are set out in summarised form below:
1. business decisions and costs are made in response to market conditions and without significant State interference, and costs reflect market values;
  2. firms have one clear set of basic accounting records, which are independently audited, in line with international accounting standards and applied for all purposes;
  3. there are no significant distortions carried over from the former non-market economy system;
  4. legal certainty and stability is provided by bankruptcy and property laws;
  5. currency exchanges are carried out at the market rate.
- (23) In the present investigation, all three sampled exporting (groups of) producers requested market economy treatment ('MET') pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines.
- (24) The investigation established that none of the sampled (groups of) exporting producers in the PRC met the requirements of the criteria set forth in Article 2(7)(c) of the basic Regulation, therefore they cannot be granted MET.

- (25) None of the companies fulfils the requirements of Criterion 1 because of State interference in decisions concerning acquisition of the main raw material (notably stainless steel billets, ingots, round bars). Those raw materials represent well above 50 % of the cost of production of the product concerned (seamless stainless steel pipes and tubes). Consequently, these raw materials are by far the major input in the production of the product concerned.
- (26) The Chinese State has a primary role in the setting of prices of raw materials for seamless stainless steel pipes and tubes and interferes in the market continuously with the following tools: export tax and no VAT rebate. First, the main raw materials to manufacture seamless stainless steel pipes and tubes, are subject to a 15 % export tax since 1 January 2008. Second, the State does not refund the VAT on exports of those raw materials.
- (27) The sampled companies acquire their main raw materials used for the production of seamless stainless steel pipes and tubes on the Chinese domestic market. The investigation established that on average and depending on the steel grade the Chinese prices of the raw materials are around 30 % lower than those on the world markets (USA or EU).
- (28) Given that the PRC has to import the majority of its iron ore at international market prices, it is clear that it does not benefit from any natural comparative advantage, which would explain the low prices of the main raw materials on the Chinese domestic market. At the same time and for several years, various studies point to significant State interference in this sector.<sup>(1)</sup> Those reports indicate that the Chinese government has identified 14 'key' industries and seven 'pillar' industries. Primary downstream consumers of specialty steel are among the seven 'pillar' industries supported by the Chinese government through its industrial policies.<sup>(2)</sup> The negative impact of export taxes and partial VAT rebates has also been underlined in the WTO Trade Policy Reviews of the PRC's trade policies and practices.<sup>(3)</sup>
- (29) As stated in the WTO Trade Policy Reviews, export taxes and VAT rebates are policy tools whose use reduce export volumes of the raw materials in question, divert supplies to the domestic market and leads to a downward pressure on the domestic prices of those products.<sup>(4)</sup> Indeed, the current investigation established a significant price gap between domestic prices and world prices. Such a gap constitutes implicit assistance to domestic downstream industries and, thus, provides them with a competitive advantage. This argument is further reinforced by the fact that there is no export tax levied on exports of the product concerned (seamless stainless steel pipes and tubes), which also benefits from a VAT rebate.
- (30) The current investigation, by establishing the different use of export taxes and VAT rebates on both the upstream and downstream industries demonstrates State interference, which can be concluded from the significant price difference for stainless steel raw materials (notably stainless steel billets, ingots, round bars) on the Chinese and world markets.
- (31) Given the price difference between Chinese domestic and world markets, in the absence of the State interference, the domestic producers of the above mentioned raw materials would be inclined to export their products to markets with higher prices where they could achieve higher profits. Indeed, the Chinese customs statistics confirm that there are virtually no exports of stainless steel billets from the PRC to the rest of the world. In 2009, the exports of stainless steel ingots and other primary forms of stainless steel amounted to less than 2 tons and in 2010 less than 5 tons. This is a further argument demonstrating State interference in the raw materials market.
- (32) These Chinese practices are to be considered as an underlying factor of State interference in decisions of firms regarding raw materials. Indeed, the current Chinese system of high export duties and no VAT reimbursement for export of raw materials has essentially led to a situation where Chinese raw material prices continue to be the result of State intervention, and will, in all likelihood, continue to provide in the future a support to the Chinese producers of seamless stainless steel pipes and tubes.
- (1) Recent trends in steel trade and trade-related policy measures, OECD report, 2010, DSTI/SU/SC(2010)15, p. 14; China's Specialty Steel Subsidies: Massive, Pervasive, and Illegal, 2008, report by the Speciality Steel Industry of North America, available at [http://www.ssina.com/news/releases/pdf\\_releases/20081014\\_report.pdf](http://www.ssina.com/news/releases/pdf_releases/20081014_report.pdf); Chinese government subsidies to the stainless steel industry, 2007, report by the Speciality steel industry of North America, available at [http://www.ssina.com/news/releases/pdf\\_releases/chinese\\_govt\\_subsidies0407.pdf](http://www.ssina.com/news/releases/pdf_releases/chinese_govt_subsidies0407.pdf); also The Reform Myth, How China is using state power to create the world's dominant steel industry, The American Iron & Steel Institute, The Steel Manufacturers Association, 2010; [http://www.ustr.gov/webfm\\_send/2694](http://www.ustr.gov/webfm_send/2694).
- (2) Reports by Speciality Steel Industry of North America above with reference to the Tenth 5-Year Plan of Industrial Structure Adjustment.
- (3) The third WTO Review of China's trade policies and practices and their impact on the functioning of the multilateral trading system, WT/TPR/S/230, available at [http://www.wto.org/english/tratop\\_e/tp\\_r\\_e/tp330\\_e.htm](http://www.wto.org/english/tratop_e/tp_r_e/tp330_e.htm); as well as The second WTO Review of China's trade policies and practices and their impact on the functioning of the multilateral trading system, WT/TPR/S/199, available at [http://www.wto.org/english/tratop\\_e/tp\\_r\\_e/tp299\\_e.htm](http://www.wto.org/english/tratop_e/tp_r_e/tp299_e.htm).
- (4) See in particular WT/TPR/S/230, p. 44.

- (33) Further, in relation to criterion 1, one of the companies failed to include in its sampling information and the MET claim two related suppliers of raw materials. The company claimed that those suppliers supply small quantities and thus the fact that they were not reported could not and would not have any substantial impact on the outcome of the investigation. It is noted that that first of all the Commission has to obtain a full picture of all companies in a group involved in the production or sales of the product concerned, regardless of the size of those companies or the size of their sales. It is further noted that the supplies of raw materials are rather fragmented, dispersed among several small suppliers. It was concluded that the company, set aside the distortion of main inputs described above, failed to demonstrate that its business decisions were made in response to market signals, without significant State interference, and costs reflected market values.
- (34) Apart from criterion 1, certain companies also failed to demonstrate that they fulfilled criterion 2 and 3. Two companies could not demonstrate that they had a clear set of accounting records that was independently audited and in line with international accounting standards. For one company, discrepancies in the financial records were not reflected in the auditor's report. Another company could not present financial statements for some years of its operation.
- (35) Finally, one company received loans from State owned banks at preferential rates, significantly lower than market rates. This demonstrates that production costs and the financial situation are subject to significant distortions carried over from the non-market economy system.
- (36) Following disclosure of the MET findings, comments were received from the Union industry and three sampled exporting (groups of) producers concerned.
- (37) One company claimed that the Commission's decision to reject MET was influenced and hence biased by the calculation of the dumping margin. In this regard it has to be noted that the MET determination precedes any dumping calculation and any verification which took place related solely to the data related to MET determination. The claim is thus unfounded.
- (38) One company claimed that it was not required to submit MET claims for related raw material suppliers. This argument has to be rejected. The notice of initiation stated clearly that the names and the precise activities of all related companies involved in the production and/or sales (export and/or domestic) of the product under investigation have to be provided to the Commission.
- (39) Further, that company claimed that the distortions on the raw materials market were not significant because 17,5 % of the raw material is imported from unrelated international suppliers and the rest is mainly purchased from related companies. The information at the Commission's disposal demonstrates that around 30 % of raw materials are purchased locally and the rest is mainly imported from related suppliers. In this context, it has to be noted that transfer prices from related suppliers are normally not considered as reliable information. Further, overall the raw material purchase prices of the company from independent suppliers are significantly lower than prices in the EU or in the US like for the other investigated exporting producers. The claim is thus rejected.
- (40) One company contested Commission's calculation of the price difference between raw materials prices on the Chinese domestic and world markets. Following the verification, the Commission confirms this calculation. In particular the company did not take into account the surcharges for alloy applied by the US and EU suppliers. The claim thus has to be rejected.
- (41) One company further claimed that the discrepancies between the income tax declaration and the financial statement were normal, not significant and therefore there was no obligation for explanations in the notes to the financial statement. Consequently, this should thus not have had an impact on the Commission's determination. It is noted that the discrepancies regarding annual profit are close to 30 million RMB and thus should have been considered as important and therefore to be explained in the notes to the financial statement.
- (42) Another claim related to an alleged breach of the WTO Agreement on Subsidies and Countervailing Measures and the EU basic Anti-Subsidy Regulation.<sup>(1)</sup> The company stated that rejecting the MET claim on the grounds that companies may be receiving subsidies has the effect of penalising exporter for subsidies deemed illegal without any substantiation. This argument has to be rejected. The MET claims have not been rejected on the basis of possible subsidies but on specific grounds set out in the recitals above as well as in the detailed MET disclosure documents sent to parties. The main reason for the rejection of the MET was distortions established on the raw materials market. Further it should be underlined that for example companies obtained loans from state owned banks at preferential rates significantly lower than market rates, clearly demonstrates the carry over from the previous non-market economy.

<sup>(1)</sup> OJ L 188, 18.7.2009, p. 93.

- (43) In conclusion, none of the comments received was such as to alter the findings with regard to MET determination.

## 2. Individual treatment

- (44) Pursuant to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation. Briefly, and for ease of reference only, these criteria are set out below:

- in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits;
- export prices and quantities, and conditions and terms of sale are freely determined;
- the majority of the shares belong to private persons. State officials appearing on the Boards of Directors or holding key management positions shall either be in minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference;
- exchange rate conversions are carried out at the market rate; and
- State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

- (45) The three above mentioned sampled (groups of) companies, which were denied MET, also claimed individual treatment ('IT'). It was provisionally found that all these three sampled (groups of) companies met the conditions of Article 9 (5) of the basic Regulation and could thus be granted IT.

## 3. Normal value

### (a) Analogue country

- (46) In accordance with Article 2(7) of the basic Regulation, normal value for exporting producers not granted MET shall be established on the basis of domestic prices or constructed normal value in an analogue country.
- (47) In the Notice of initiation, the Commission indicated that it envisaged using the USA as analogue country for the purpose of establishing normal value for the PRC. One party claimed that India was a better analogue market because of similar level of development to the PRC. The

Commission obtained no cooperation from the Indian producers. The USA seemed initially appropriate given its openness to import competition (customs tariffs of 0 % as opposed to 10 % in India) and a fairly good level of competition on the domestic market with 15 to 20 USA producers.

- (48) However, the questionnaire replies and the verification visit revealed that the USA is not an appropriate analogue country market. All the co-operating USA producers rely on imports of basic raw materials and finished products from their EU parent companies and maintain a limited production activity in the USA, mainly to respond to customized or time critical orders. In fact, the production volume of the co-operating USA producers is a fraction of their European parent producers. Most importantly, however, the USA co-operating producers have high processing costs reflecting their particular manufacturing circumstances. Those costs translate into high domestic prices on the USA market.

### (b) Determination of normal value

- (49) In accordance with Article 2(7)(a) of the basic Regulation the normal value shall be determined on the basis of the price or constructed normal value in a market economy third country or the export prices from such country to other countries, including the EU. Given that the normal value could not be established on the basis of prices or constructed values in the USA for the reasons set out in the previous recital, the second method was explored. However, for the reasons set out below this method is also not suitable for the present case. Just as the USA domestic sales prices, the USA export prices will also be tainted by the high production costs and the fact that export volumes would be limited, i.e. less than 2 % of the Chinese exports to the EU). It would also appear that some of those exports are made to related companies and are thus unreliable for the purposes of normal value determination.

- (50) As an alternative to the above mentioned two methods Article 2(7)(a) of the basic Regulation stipulates that normal value can be determined on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit. This method has been provisionally used in the present case given that the investigation established at this stage that the USA is not an appropriate analogue country.

- (51) For the product types exported by the sampled Chinese (groups of) exporting producers for which no sales were made by the sampled Union producers, the Commission provisionally used prices actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit, of the closest resembling product types having the same diameter, steel grade and product type (e.g. cold or hot drawn).

#### 4. Export price

- (52) In all cases the product concerned was exported to independent customers in the Union, and therefore, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

#### 5. Comparison

- (53) The dumping margins were established by comparing the individual ex-works export prices of the sampled exporters to the domestic sales prices of the sampled Union producers established as set out in recital (50) above.
- (54) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence. In particular, an adjustment was granted for indirect taxes, ocean freight and insurance, freight in the exporting country, warranty expenses, commissions, credit costs, bank charges, level of trade and as elaborated in recital (70) below, quality perception.

#### 6. Dumping margins

- (55) The provisional dumping margins were expressed as a percentage of the CIF Union frontier price, duty unpaid.

##### (a) For the cooperating sampled exporting producers granted IT

- (56) Pursuant to Article 2(11) and (12) of the basic Regulation, the dumping margins for the sampled cooperating exporting producers granted IT were established on the basis of a comparison of a weighted average normal value established on the basis of prices actually paid or payable in the Union for the like product, duly adjusted to include a reasonable profit as detailed in recitals (50) and (51) above with each company's weighted average export price of the product concerned to the Union as established above.
- (57) On this basis, the provisional dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are:

| Sampled companies  | Provisional dumping margins |
|--|-----------------------------|
| Changshu Walsin Specialty Steel, Co. Ltd., Haiyu                       | 83,2 %                      |
| Shanghai Jinchang Stainless Steel Tube Manufacturing, Co. Ltd., Situan | 62,5 %                      |
| Wenzhou Jiangnan Steel Pipe Manufacturing, Co. Ltd., Yongzhong         | 66,5 %                      |

##### (b) For all other cooperating exporting producers

- (58) The dumping margin for other cooperating exporting producers in the PRC, not included in the sample, was calculated as a weighted average of the sampled exporting producers' dumping margins, in accordance with Article 9(6) of the basic Regulation.

- (59) On this basis, the provisional dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, is 71,1 %.

##### (c) All other (non-cooperating) exporting producers

- (60) Given the high level of co-operation in the investigation (the co-operating companies represent around 64 % of the total imports recorded in Eurostat during the IP) the country wide margin for non-cooperating exporting producers, was established by using the highest of the margins found for the sampled (groups of) companies.
- (61) On this basis the provisional country-wide level of dumping as a percentage of the CIF Union frontier price, duty unpaid is 83,2 %.

### D. INJURY

#### 1. Union production and Union industry

- (62) During the IP, the like product was manufactured by 21 producers in the Union. Within the meaning of Article 4(1) and Article 5(4) of the basic Regulation, all 21 existing Union producers constitute the Union industry and they will therefore be hereafter referred to as the 'Union industry'.
- (63) As indicated under recital (7) above, two groups of Union producers, comprised of five Union producers were selected in the sample, representing more than 50 %, of the total Union production of the like product. Of the remaining cooperating Union producers, the company that requested a limitation of the product scope (see recitals (16) and (17) above – did not agree with the selection of the sample. Notably, the producer criticized that the sample includes only companies that are present both on the 'market of finished products' and that of 'pre-material', and also the fact that the sample is comprised of only complainant companies. It is reiterated that the company in question purchases pre-material from both the PRC and the Union industry. However, the producer failed to prove that indeed such two separate markets exist. In addition, the producer represented less than 2 % of total Union production during the IP, whilst the two company groups were selected on the basis of the objective criteria as described in recitals (7) and (8) above.

## 2. Union consumption

- (64) Union consumption was established on the basis of the sales volumes of the Union industry on the Union market based on the information obtained from the defence committee representing the complainants (see recital (2) above) and the import volumes data for the Union market obtained from Eurostat. The latter data had to be slightly adjusted with regard to imports from South Africa and Japan for certain periods given that those data included some distortions resulting from incorrect reporting of information.
- (65) Union consumption dropped strongly by 35 % between 2006 and the IP. The consumption had however slightly increased between 2006 and 2007, peaked in 2007 and then continuously decreased year by year until the IP.

Table 1

| Union consumption |         |         |         |         |        |
|-------------------|---------|---------|---------|---------|--------|
|                   | 2006    | 2007    | 2008    | 2009    | IP     |
| Units (tonnes)    | 131 965 | 153 630 | 133 711 | 102 865 | 85 629 |
| <i>Indexed</i>    | 100     | 116     | 101     | 78      | 65     |

- (66) Indeed the period considered covers considerable fluctuations on the market, mainly due to huge volatilities in demand for stainless steel tubes. The year 2007 and also the first three quarters of 2008 can be characterised as a robustly booming market. Eventually, the economic crisis had a large impact on the demand. This impact started to become visible in the last quarter of 2008, became graver throughout 2009 and continued even in the first half of 2010 thus affecting also the whole of the IP. All this is well reflected in the trend of Union consumption which was at its peak in 2007 after which it shrank year by year.

## 3. Imports from the country concerned

### 3.1. Volume of dumped imports

- (67) The volume of imports of the product concerned from the PRC into the Union market has increased over the period considered. Overall during the period considered, imports from the PRC increased by 14 %. In fact, between 2006 and 2007, imports from the PRC have almost doubled, while they decreased year by year between 2007 and the IP, largely due to the fall in consumption (as market share remained stable between 2008 and the IP – see recital (68) below).

Table 2

| Imports from the PRC (volumes) |        |        |        |        |        |
|--------------------------------|--------|--------|--------|--------|--------|
|                                | 2006   | 2007   | 2008   | 2009   | IP     |
| Units (tonnes)                 | 13 804 | 26 790 | 25 186 | 17 043 | 15 757 |
| <i>Indexed</i>                 | 100    | 194    | 182    | 123    | 114    |

### 3.2. Market share of dumped imports

- (68) The market share of dumped imports from the PRC has almost doubled over the period considered, increasing by 76 % or 7,9 percentage points. This market share growth mainly took place between 2006 and 2007, subsequently maintaining its high level.

Table 3

| <b>Imports from the PRC (market share)</b> |        |        |        |        |        |
|--|--------|--------|--------|--------|--------|
|  | 2006   | 2007   | 2008   | 2009   | IP     |
| Market share (%)                           | 10,5 % | 17,4 % | 18,8 % | 16,6 % | 18,4 % |
| <i>Indexed</i>                             | 100    | 167    | 180    | 158    | 176    |

### 3.3. Prices

#### (a) Price evolution

- (69) The table below shows the average price of dumped imports from the PRC, at the European border duty unpaid, as reported by Eurostat. During the period considered the average price of imports from the PRC increased until 2008 and then fell between 2008 and the IP.

Table 4

| <b>Imports from the PRC (prices)</b> |       |       |       |       |       |
|--------------------------------------|-------|-------|-------|-------|-------|
|                                      | 2006  | 2007  | 2008  | 2009  | IP    |
| Average price per tonne (EUR)        | 4 354 | 5 129 | 5 506 | 4 348 | 3 954 |
| <i>Indexed</i>                       | 100   | 118   | 126   | 100   | 91    |

#### (b) Price undercutting

- (70) A type-to-type price comparison was made between the selling prices of the Chinese exporting producers and the sampled Union producers' selling prices in the Union. To this end, the sampled Union producers' prices to unrelated customers have been compared with the prices of sampled exporting producers of the country concerned. Adjustments were applied where necessary to take account of differences in the market perception of product quality, the level of trade and post-importation costs.
- (71) The comparison showed that, during the IP, imports of the product concerned originating in the PRC were sold in the Union at prices which undercut the Union industry prices, when expressed as a percentage of the latter, by 21 % to 32 %.

## 4. Economic situation of the Union industry

### 4.1. Preliminary remarks

- (72) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indicators having a bearing on the state of the Union industry. The data presented below relate to all Union producers for sales and market shares, and to the sampled Union producers for all the remaining indicators. As concerns the indicators based on the sampled producers, given that the sample was comprised of only two groups of producers, for confidentiality reasons the actual aggregate data could not be disclosed in the related tables below; instead, only the indices are presented in order to show the trend of those indicators.

### 4.2. Production

- (73) The Union production volumes increased between 2006 and 2008, but they fell sharply between 2008 and the IP. This substantial decrease of production was caused by both the market contraction and the increasing pressure of dumped imports.

Table 5

| <b>Production</b>             |      |      |      |      |    |
|-------------------------------|------|------|------|------|----|
| sampled producers             | 2006 | 2007 | 2008 | 2009 | IP |
| Production ( <i>indexed</i> ) | 100  | 107  | 121  | 84   | 66 |

#### 4.3. Production capacity and capacity utilisation

- (74) The production capacity of the Union industry remained relatively stable throughout the period considered: However, the rate of capacity utilization decreased by 35 % between 2006 and the IP. In the IP, the level of capacity utilization dropped to little more than half of the level reached in 2008.

Table 6

| <b>Production capacity</b>              |      |      |      |      |     |
|---|------|------|------|------|-----|
| sampled producers                       | 2006 | 2007 | 2008 | 2009 | IP  |
| Capacity ( <i>indexed</i> )             | 100  | 98   | 101  | 102  | 101 |
| Capacity utilisation ( <i>indexed</i> ) | 100  | 109  | 120  | 82   | 65  |

#### 4.4. Stocks

- (75) The table below shows that the closing stocks first increased until 2008, when Union production was at its peak, but then they started decreasing due to the reduced levels of manufacturing activity.

Table 7

| <b>Stocks</b>             |      |      |      |      |     |
|---------------------------|------|------|------|------|-----|
| sampled producers         | 2006 | 2007 | 2008 | 2009 | IP  |
| Stocks ( <i>indexed</i> ) | 100  | 124  | 168  | 138  | 118 |

#### 4.5. Union sales volumes (total Union industry)

- (76) The sales volume of all Union producers on the EU market decreased on the whole by 39 %, while Chinese exports increased by 14 % at the same time, as stated in recital (68) above. The Union sales volumes of Union industry developed as follows:

Table 8

| <b>Union sales (volumes)</b> |        |        |        |        |        |
|------------------------------|--------|--------|--------|--------|--------|
| all EU producers             | 2006   | 2007   | 2008   | 2009   | IP     |
| Union sales (tonnes)         | 82 743 | 91 043 | 79 418 | 63 223 | 50 569 |
| <i>Indexed</i>               | 100    | 110    | 96     | 76     | 61     |

#### 4.6. Market share (total Union industry)

- (77) The market share of the Union industry decreased by 3,4 percentage points between 2006 and 2007 and remained relatively stable during the rest of the period considered, with a small temporary increase in 2009. Overall, the Union industry lost 3,6 percentage points of market share, whereby as shown in Table 3 above, the market share of dumped imports from the PRC has almost doubled over the period considered.

Table 9

| Union market share |        |        |        |        |        |
|--------------------|--------|--------|--------|--------|--------|
| all EU producers   | 2006   | 2007   | 2008   | 2009   | IP     |
| Market share (%)   | 62,7 % | 59,3 % | 59,4 % | 61,5 % | 59,1 % |
| <i>Indexed</i>     | 100    | 95     | 95     | 98     | 94     |

#### 4.7. Sales prices

- (78) As concerns average sales prices, the table below shows that in 2007 the Union industry increased its sales prices and then gradually reduced them year by year until the IP, reaching price levels which are below those of 2006. The evolution and the high volatility of their sales prices were partly due to serious fluctuations of raw material costs.

Table 10

| Union sales (average prices)               |      |      |      |      |    |
|--|------|------|------|------|----|
| sampled producers                          | 2006 | 2007 | 2008 | 2009 | IP |
| Average price per tonne ( <i>indexed</i> ) | 100  | 135  | 126  | 100  | 92 |

#### 4.8. Employment

- (79) The employment level largely followed the development of the production volumes (see Table 5 above), which indicates that the Union industry has attempted to rationalise manufacturing costs when it was necessary. The Union industry tried to adapt their workforce to the worsening market circumstances by reducing working hours rather than reducing their headcount. Therefore, the table below shows the employment level in full-time equivalents (FTE). FTE employment of the Union producers increased by 11 percentage points between 2006 and 2008, followed by a drop of 19 percentage points from 2008 to the IP. On the whole, the number of FTE's decreased by 8 % over the period considered.

Table 11

| Employment   |      |      |      |      |    |
|--|------|------|------|------|----|
| sampled producers                                      | 2006 | 2007 | 2008 | 2009 | IP |
| Employment in full-time equivalents ( <i>indexed</i> ) | 100  | 106  | 111  | 95   | 92 |

#### 4.9. Productivity

- (80) Despite the above attempts of the Union industry, the output per FTE of the Union producers fell considerably, overall by 29 %. The serious impacts of dumped imports from the PRC in the period of a collapsing market demand prevented the Union industry from maintaining its productivity levels.

Table 12

| <b>Productivity</b>                    |      |      |      |      |    |
|--|------|------|------|------|----|
| sampled producers                      | 2006 | 2007 | 2008 | 2009 | IP |
| Production volume per FTE<br>(indexed) | 100  | 102  | 109  | 88   | 71 |

## 4.10. Labour Costs

- (81) During the period considered, the Union industry has managed to control the development of labour costs. Indeed, the table below shows that the average annual labour cost slightly increased in 2007 and 2008, but they decreased in 2009 and the IP. Over the whole period, unit labour costs went down by 2 %. This decrease would have been more pronounced had the amounts of severance payments been excluded from the above trend.

Table 13

| <b>Labour costs</b>                          |      |      |      |      |    |
|--|------|------|------|------|----|
| sampled producers                            | 2006 | 2007 | 2008 | 2009 | IP |
| Annual labour cost per employee<br>(indexed) | 100  | 103  | 109  | 100  | 98 |

## 4.11. Profitability and return on investments (ROI)

- (82) Profitability of the Union industry was established by expressing the pre-tax net profit of the sales of the like product on the EU market to unrelated customers as a percentage of the turnover of these sales. As a result, the profitability margins of the Union industry developed as follows during the period considered:

Table 14

| <b>Profitability &amp; return on investments (ROI)</b> |      |      |      |       |       |
|--|------|------|------|-------|-------|
| sampled producers                                      | 2006 | 2007 | 2008 | 2009  | IP    |
| Net profit (indexed)                                   | 100  | 202  | 89   | - 147 | - 188 |
| ROI (indexed)  | 100  | 289  | 215  | - 107 | - 153 |

- (83) As the above table shows, the profitability of the Union industry peaked in 2007 due to the extraordinary market conditions from which all market players could benefit. The average profitability significantly deteriorated starting from 2007 and profits have turned into a significant loss during 2009 and the IP.
- (84) As concerns the return on investments ('ROI'), expressed as the profit in percent of the net book value of investments, this indicator appears to have followed the profitability trend.

## 4.12. Cash flow and ability to raise capital

- (85) The net cash flow from operating activities developed as follows (given the negative amount in 2006, exceptionally for this table, 2007 was considered as the year of reference for indicating the cash flow development):

Table 15

| Cash flow                    |                 |      |      |      |    |
|------------------------------|-----------------|------|------|------|----|
| sampled producers            | 2006            | 2007 | 2008 | 2009 | IP |
| Cash flow ( <i>indexed</i> ) | <i>negative</i> | 100  | 685  | 175  | 53 |

- (86) The above table shows that the cash flow of the Union industry peaked in 2008 and that subsequently it decreased until the end of the period considered, reaching a rather low level in the IP.

#### 4.13. Investments

- (87) During the period considered, the investments of the sampled Union producers developed as follows:

Table 16

| Investments                        |      |      |      |      |     |
|------------------------------------|------|------|------|------|-----|
| sampled producers                  | 2006 | 2007 | 2008 | 2009 | IP  |
| Net investments ( <i>indexed</i> ) | 100  | 192  | 406  | 286  | 183 |

- (88) As the above table shows, the Union producers decided to continue to invest despite their above fragile financial situation in 2009 and the IP. The reasons for this are that (i) this type of industry normally requires certain multi-annual investments which had to be completed irrespective of the market situation, and that (ii) in this sector frequent machinery upgrades are a prerequisite to allow production of larger quantities of higher-end products (as an effort to maintain competitiveness vis-à-vis other manufacturers).

#### 4.14. Magnitude of the actual dumping margin

- (89) The dumping margins for imports from the PRC, as specified above in recital (57) above, are very high. Given the volume, market share and prices of the dumped imports, the impact of the margins of dumping can be considered substantial.

#### 5. Conclusion on injury

- (90) The injury indicators developed negatively during the period considered. This is particularly noticeable for the indicators concerning profitability, production volumes, capacity utilisation, sales volumes and market share that have all showed a clearly deteriorating trend.
- (91) At the same time, stainless steel tube imports from the PRC were undercutting Union industry prices by up to 32 % during the IP (see recital (71) above).
- (92) In the light of the foregoing, it is provisionally concluded that the Union industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

#### E. CAUSATION

##### 1. Introduction

- (93) In accordance with Article 3(6) and Article 3(7) of the basic Regulation, the Commission examined whether the dumped imports have caused injury to the Union industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time have injured the Union industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

##### 2. Effect of the dumped imports

- (94) Between 2006 and the IP, the volume of the dumped imports of the product concerned increased in terms of volume by 14 % in a market contracting by 35 %, which resulted in an increase of Union market share by 76 %, from 10,5 % to 18,4 %.
- (95) The increase in dumped imports of the product concerned from the PRC over the period considered coincided with a downward trend in most injury indicators of the Union industry. The Union industry lost 3,6 percentage points of market share and its sales prices decreased by 8 % due to the price pressure exerted by low-priced dumped imports on the Union market. The significant price undercutting prevented the Union industry from passing on the increased production costs in the sales prices to an acceptable extent, which resulted in negative profitability levels during the IP.

- (96) Based on the above it is provisionally concluded that the low-priced dumped imports from the PRC, which entered the Union market in large and overall increasing volumes and which significantly undercut the Union industry prices throughout the period considered, are causing material injury to the Union industry.

### 3. Effect of other factors

#### 3.1. Imports from other third countries

- (97) During the period considered, there were limited imports from other third countries. The total market share of imports from countries other than the PRC has decreased by 4,3 percentage points, from 26,8 % to 22,5 %.
- (98) The next largest sources of imports during the IP were Japan and Ukraine. They both held a market share of 5,2 % each. India had a market share of 3,0 % while imports from the USA had a market share of 2,7 % during the IP. The following table shows the development of import volumes, prices and market shares of the four largest import source countries following the PRC and those of the remaining other third country imports, all based on Eurostat data. As already mentioned in recital (64) above, Eurostat data for Japanese imports required slight adjustments to exclude distortions resulting from incorrect reporting of transactions.

Table 17

| Imports from other countries                |                  |        |        |        |        |        |
|---|------------------|--------|--------|--------|--------|--------|
| Country                                     |                  | 2006   | 2007   | 2008   | 2009   | IP     |
| Japan                                       | Volumes(tonnes)  | 5 801  | 7 211  | 6 955  | 6 753  | 4 445  |
|   | Market share (%) | 4,4 %  | 4,7 %  | 5,2 %  | 6,6 %  | 5,2 %  |
|   | Av. price (EUR)  | 7 981  | 7 396  | 8 591  | 11 634 | 9 596  |
| Ukraine                                     | Volumes(tonnes)  | 7 820  | 8 536  | 7 904  | 4 659  | 4 431  |
|   | Market share (%) | 5,9 %  | 5,6 %  | 5,9 %  | 4,5 %  | 5,2 %  |
|   | Av. price (EUR)  | 6 775  | 9 212  | 8 100  | 6 336  | 6 031  |
| India                                       | Volumes(tonnes)  | 3 664  | 4 323  | 3 461  | 3 265  | 2 540  |
|   | Market share (%) | 2,8 %  | 2,8 %  | 2,6 %  | 3,2 %  | 3,0 %  |
|   | Av. price (EUR)  | 5 519  | 6 874  | 6 789  | 3 929  | 4 111  |
| USA   | Volumes(tonnes)  | 3 739  | 6 019  | 2 724  | 2 740  | 2 344  |
|   | Market share (%) | 2,8 %  | 3,9 %  | 2,0 %  | 2,7 %  | 2,7 %  |
|   | Av. price (EUR)  | 16 235 | 5 597  | 12 892 | 11 175 | 11 054 |
| Other countries                             | Volumes(tonnes)  | 14 394 | 9 709  | 8 063  | 5 183  | 5 542  |
|   | Market share (%) | 10,9 % | 6,3 %  | 6,0 %  | 5,0 %  | 6,5 %  |
|   | Av. price (EUR)  | 6 643  | 7 880  | 8 553  | 6 695  | 6 497  |
| Total of all third countries except the PRC | Volumes(tonnes)  | 35 418 | 35 797 | 29 107 | 22 600 | 19 303 |
|   | Market share (%) | 26,8 % | 23,3 % | 21,8 % | 22,0 % | 22,5 % |
|   | Av. price (EUR)  | 5 586  | 7 540  | 8 453  | 8 392  | 7 484  |

- (99) As indicated in the table above, during the period considered Japan moderately increased its market share by 0,8 percentage points from 4,4 % to 5,2 %. However, prices of Japanese imports appear to be much more comparable to the Union prices than prices of imports from the PRC. Most importantly, in the IP, Japanese import prices were significantly higher than those of the Union industry.
- (100) Imports from the USA were made at prices considerably higher than those of the Union industry during the period considered (except for the year of 2007). As concerns imports from Ukraine and India, although average prices from these countries were overall lower than Union prices, both maintained a relatively stable market share on the Union market: the market share of Ukraine decreased from 5,9 % to 5,2 % while that of India grew from 2,8 % to 3,0 % during the period considered.
- (101) In conclusion, the market share of imports from all third countries except the PRC decreased by 4,3 percentage points (from 26,8 % to 22,5 %) during the period considered. Overall, the average import price from all third countries other than the PRC increased by 34 % during the period considered (from EUR 5 586 to EUR 7 484 per tonne) which is in sharp contrast with the 9 % reduction in the already very low Chinese import prices and the 8 % drop of average Union sales prices.
- (102) On the basis of the above it can be concluded that imports from third countries other than the PRC do not appear to have contributed to the injury suffered by the Union industry during the IP.
- half of 2010 i.e. the whole of the IP. All this is reflected in the Union consumption trends, which was at its peak in 2007 after which it shrank year by year (see Table 1 above).
- (104) Undoubtedly, the above drop in consumption resulting from the economic downturn had also an impact on the situation of the Union industry. It must be noted, however, that this negative effect was seriously exacerbated by the dumped imports from the PRC, which significantly undercut the prices of the Union industry. Therefore, even if the economic downturn could be considered as a factor contributing to the injury during the IP, by no means could this diminish the injurious effects of low priced dumped imports from the PRC on the Union market. In the absence of such unfair competition from the PRC and the volume and price pressure that it exerted on the Union producers, it would have been possible for the latter to maintain the level of their sales prices and profitability at relatively acceptable levels even in a situation of decreasing demand.
- (105) Actually, the impact of dumped imports from the PRC that largely undercut the Union sales prices during the IP can be considered as even more injurious in a period of economic crisis when sales volumes and prices are in any event already under pressure by the lower consumption.
- (106) Given the above circumstances, the economic downturn cannot be considered as a possible factor that would break the causal link between the injury suffered by the Union industry and the dumped imports from the PRC.

### 3.2. Impacts of market fluctuations and the economic crisis

- (103) Whilst 2007 and the first three quarters of 2008 can be characterised as a robustly booming market for stainless steel tubes, eventually, the financial and economic crisis had a large impact also on this sector. The economic downturn started in the last quarter of 2008, continued throughout 2009 and affected even the first

### 3.3. Export performance of the Union industry

- (107) As concerns the development of export sales of the Union industry, exports decreased less than domestic sales, irrespective of whether all Union producers or only sampled producers are examined. As concerns the development of export sales volumes, the following trend could be established for the Union industry during the period considered:

Table 18

| Union industry – export sales (tonnes) to unrelated customers |      |      |      |      |    |
|---|------|------|------|------|----|
| all EU producers  | 2006 | 2007 | 2008 | 2009 | IP |
| <i>Indexed</i>  | 100  | 99   | 108  | 88   | 64 |

- (108) It should be pointed out that the export sales of the Union industry shrank at a slower pace than its sales did on the Union market. This may imply that the pressure of dumped imports from the PRC is particularly strong in the Union market. Given this indication as well as the substantial share of exports in total sales made by the Union industry (constantly between 39 % and 45 % during the period considered), any lack of competitiveness of the Union producers on the world market can certainly be excluded.

### 3.4. Competitiveness of dumped imports from the PRC and cost of production of the Union industry

- (109) The high volatility of the alloy prices as well as the general developments in market demand resulted in considerable fluctuations of the costs of the main raw material for manufacturing the product under investigation. The average unit cost of production of the Union industry developed as follows during the period considered:

Table 19

| Union industry – cost of production (EUR per tonne) |      |      |      |      |     |
|---|------|------|------|------|-----|
| sampled producers                                   | 2006 | 2007 | 2008 | 2009 | IP  |
| <i>Indexed</i>                                      | 100  | 120  | 119  | 124  | 118 |

- (110) As already stated in recital (78) above, the PRC market for the main raw materials is highly distorted. Due to this distortion, exporting producers in the PRC appear to have the possibility to make export sales of the product concerned to the Union market with a pricing that is likely to be less elastic to raw material prices and which results in prices largely undercutting those on the Union market. In other words, due to the distortion on the Chinese raw material market, the stainless steel tubes manufacturers in the PRC have an unfair competitive advantage when compared to the Union industry. These distortions would have contributed to allowing the Chinese producers to keep the low price level of the dumped imports from the PRC.

#### 4. Conclusion on causation

- (111) In conclusion, the above analysis has demonstrated that imports from the PRC have increased in terms of quantities and gained substantial market share over the period considered. Moreover, these increased quantities which entered the Union market at dumped prices severely undercut the Union industry prices. Though for a certain period the Union industry had been able to offset the negative effects of this pressure thanks to the exceptionally positive market conditions in the years of 2007 and 2008, this was no longer possible when the economic crisis substantially reduced the level of demand.
- (112) Other factors which could have caused injury to the Union industry have also been analysed. In this respect, it was found that imports from other third countries, the impact of the economic crisis, the export performance of the Union industry and other factors including those related to distortions on the PRC raw material market, do not appear to be such as to break the causal link established between the dumped imports and the injury suffered by the Union industry during the IP.
- (113) Based on the above analysis, which has properly distinguished and separated the effects of all known factors

having an effect on the situation of the Union industry from the injurious effect of the dumped imports, it is provisionally concluded that the imports from the PRC have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

#### F. UNION INTEREST

- (114) In accordance with Article 21 of the basic Regulation, the Commission examined whether, despite the conclusions on dumping, injury and causation, reasons existed which would lead the Commission to clearly conclude that it is not in the Union interest to adopt measures in this particular case. For this purpose and pursuant to Article 21(1) of the basic Regulation, the Commission considered the likely impact of possible measures on all parties involved as well as the likely consequences of not taking measures.
- (115) The Commission sent questionnaires to independent importers and users. Eventually, two importers and one user submitted questionnaire replies within the time limits set.

##### 1. Interest of the Union industry

- (116) One Union producer opposed the imposition of anti-dumping measures as the company partly sources unworked stainless steel hollows from the PRC in order to further process them into finished tubes. However, the producer represents less than 2 % of total Union production.
- (117) It is recalled that the injury indicators showed an overall negative trend and that in particular the injury indicators related to production and sales volumes and market share as well as the financial performance of the Union industry such as profitability and return on investment, were seriously affected.

(118) If measures are imposed, it is expected that the price depression and loss of market share will be mitigated and that the sales prices of the Union industry will start to recover, resulting in a significant improvement of the Union industry's financial situation.

(119) On the other hand, should anti-dumping measures not be imposed, it would be likely that the deterioration of the Union industry's market and financial situation would continue. In such a scenario, the Union industry would lose further market share, as it is not able to follow the market prices set by dumped imports from the PRC. The likely effects would entail further cuts in manufacturing and the closure of production facilities in the Union, resulting in substantial job losses.

(120) Taking into account all the above factors, it is provisionally concluded that the imposition of anti-dumping measures would be in the interest of the Union industry.

## 2. Interest of unrelated importers in the Union

(121) As indicated above, sampling was not applied for unrelated importers as only two unrelated importers fully cooperated in this investigation by submitting a questionnaire reply. Only a small part of the turnover of these two importers was related to re-sales of the product concerned from the PRC.

(122) The imports declared by these two importers however represented a relatively small proportion of all imports from the PRC in the IP (much less than 10%). Considering the high margins that the importers achieved on the re-sales of the product concerned in the IP, it can be assumed that the imposition of anti-dumping duties could result for them in lower profitability levels. However, neither of the importers put forward arguments according to which the imposition of anti-dumping duties would be against their interest. In addition, as they both re-sell stainless steel tubes of non-Chinese origin (including tubes of Union origin), they may as well decide to shift purchases to non-Chinese suppliers, which are not affected by the duties.

(123) No other importers have cooperated by submitting a questionnaire reply or substantiated comments. On that basis, it is provisionally concluded that the imposition of provisional measures will not have substantially negative effects on the interest of the Union importers.

## 3. Interest of the users

(124) Seamless pipes and tubes of stainless steel subject to this proceeding are used for a large number of applications (see recital (17) above). Despite this, cooperation was

obtained from only one user which uses stainless steel tubes for manufacturing air fin coolers and air cooled condensers, accounting for less than 1% of total Chinese imports during the IP. However, it can provisionally be concluded that the very limited cooperation of users appears to indicate that in general the impact on the user industry's profitability and economic situation will be rather limited.

(125) From the questionnaire reply of this user it appears that the company will not be seriously affected by anti-dumping measures, not even with regard to its division using the stainless tubes. When comparing the value of imports of the product concerned with the turnover of the division using the imported goods, the effect can be considered insignificant.

(126) In view of the data of this user, it can however not be excluded that certain user companies that use more substantial quantities of stainless tubes imported from the PRC could be negatively affected by the anti-dumping measures.

(127) From the information submitted by the sole cooperating user it is impossible to estimate the total employment of the whole user industry within the Union, given its limited representativeness and the wide variety of applications.

(128) It should also be noted that the level of measures is unlikely to prevent Chinese imports from continuing to supply the Union market, albeit at increased non-injurious prices. In addition, the idle production capacity of the Union industry as well as the alternative sources of imports from various other third countries indicate that there is no risk of security of supply for the stainless steel tubes on the Union market.

(129) Besides, despite the recent difficulties of the Union industry, it continues to be the largest supplier of the user industry in the Union. Without the imposition of measures, in case of further deterioration of the financial situation of the Union industry, the existence of the Union industry would be jeopardised which would bring about a risk of supply also for the users within the Union.

(130) All in all, when considering the overall impact of the anti-dumping measures, the positive effects on the Union industry appear to clearly outweigh the potential negative impacts on the other interest groups. Therefore it is provisionally concluded that the anti-dumping duties are not against the Union interest.

#### 4. Conclusion on Union interest

- (131) It can be concluded that the imposition of measures on dumped imports of the product concerned from the PRC is expected to provide an opportunity for the Union industry to improve its situation through increased sales volumes, sales prices and market share. While some negative effects may occur in the form of cost increases for certain users, they are likely to be outweighed by the expected benefits for the producers and their suppliers.
- (132) In the light of the above, it is provisionally concluded that on balance, no compelling reasons exist against the imposition of provisional measures on imports of the product concerned originating in the PRC.

#### G. PROVISIONAL ANTI-DUMPING MEASURES

- (133) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, provisional measures should be imposed on imports of the product concerned originating in the People's Republic of China in order to prevent further injury to the Union industry by the dumped imports.

##### 1. Injury elimination level

- (134) The provisional measures on imports originating in the PRC should be imposed at a level sufficient to eliminate dumping, without exceeding the injury caused to the Union industry by the dumped imports. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it is considered that any measures should allow the Union industry to cover its costs of production and obtain overall a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.
- (135) The Union industry has claimed that for the determination of the injury elimination level a target profit of 12 % should be used. However, the evidence provided so far has not shown that this profitability can be achieved in a normal market situation. Not even in the exceptional year of 2007 could the Union industry achieve such high level of profitability. Based on the data collected during the investigation it has provisionally been considered that a 5 % profit is appropriate for determining the injury elimination level.
- (136) On this basis, a non-injurious price was calculated for the Union industry of the like product. The non-injurious price has been established by deducting the actual profit margin from the ex-works price and adding to the thus calculated break even price the above-mentioned target profit margin.

- (137) As a result, the following injury elimination levels have provisionally been established:

| Company/companies  | Injury elimination level |
|--|--------------------------|
| Changshu Walsin Specialty Steel, Co. Ltd., Haiyu                       | 71,5 %                   |
| Shanghai Jinchang Stainless Steel Tube Manufacturing, Co. Ltd., Situan | 48,2 %                   |
| Wenzhou Jiangnan Steel Pipe Manufacturing, Co. Ltd., Yongzhong         | 48,0 %                   |
| Companies listed in Annex I  | 56,6 %                   |
| All other companies  | 71,5 %                   |

##### 2. Provisional measures

- (138) In the light of the foregoing and pursuant to Article 7(2) of the basic Regulation, it is considered that a provisional anti-dumping duty should be imposed on imports of the product concerned originating in the PRC at the level of the lower of the dumping margin and injury elimination level found, in accordance with the lesser duty rule, which is in all cases the injury margin.
- (139) Given the high rate of co-operation of Chinese exporting producers, the all other companies rate is set at the rate of the co-operating company in the sample with the highest rate. For the co-operating non-sampled companies listed in the Annex the provisional duty rate is set at the weighted average of the rates of the sampled companies. On the basis of the above, the proposed duty rates are:

| Company/companies  | Provisional duty |
|--|------------------|
| Changshu Walsin Specialty Steel, Co. Ltd., Haiyu                       | 71,5 %           |
| Shanghai Jinchang Stainless Steel Tube Manufacturing, Co. Ltd., Situan | 48,2 %           |
| Wenzhou Jiangnan Steel Pipe Manufacturing, Co. Ltd., Yongzhong         | 48,0 %           |
| Companies listed in Annex I  | 56,6 %           |
| All other companies  | 71,5 %           |

- (140) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These

duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

- (141) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting-up of new production or sales entities) should be addressed to the Commission <sup>(1)</sup> forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.
- (142) In order to ensure a proper enforcement of the anti-dumping duty, the duty level for all other companies should not only apply to the non-cooperating exporting producers, but also to those producers which did not have any exports to the Union during the IP.

#### H. FINAL PROVISION

- (143) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of certain seamless pipes and tubes of stainless steel, other than with attached fittings suitable for conducting gases or liquids for use in civil aircraft, currently falling within CN codes 7304 11 00, 7304 22 00, 7304 24 00, ex 7304 41 00, 7304 49 10, ex 7304 49 93, ex 7304 49 95, ex 7304 49 99 and ex 7304 90 00 (TARIC codes 7304 41 00 90,

7304 49 93 90, 7304 49 95 90, 7304 49 99 90 and 7304 90 00 91), and originating in the People's Republic of China.

2. The rate of the provisional anti-dumping duty applicable to the net free-at-Union-frontier price, before duty, of the products described in paragraph 1 and manufactured by the companies listed below, shall be as follows:

| Company/companies  | Provisional duty | TARIC Additional Code |
|--|------------------|-----------------------|
| Changshu Walsin Specialty Steel, Co. Ltd., Haiyu                       | 71,5 %           | B120                  |
| Shanghai Jinchang Stainless Steel Tube Manufacturing, Co. Ltd., Situan | 48,2 %           | B118                  |
| Wenzhou Jiangnan Steel Pipe Manufacturing, Co. Ltd., Yongzhong         | 48,0 %           | B119                  |
| Companies listed in Annex I  | 56,6 %           | B121                  |
| All other companies  | 71,5 %           | B999                  |

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

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

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

#### Article 2

Without prejudice to Article 20 of Council Regulation (EC) No 1225/2009, interested parties may request disclosure of the details underlying the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

<sup>(1)</sup> European Commission  
Directorate-General for Trade  
Direction H  
Office Nerv 105  
B-1049 Brussels.

Pursuant to Article 21(4) of Regulation (EC) No 1225/2009, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

*Article 3*

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 27 June 2011.

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

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## ANNEX I

- (1) Baofeng Steel Group Co.Ltd., Lishui,
  - (2) Changzhou City Lianyi Special Stainless Steel Tube Co.Ltd., Changzhou,
  - (3) Huadi Steel Group Co.Ltd., Wenzhou,
  - (4) Huzhou Fengtai Stainless Steel Pipes Co.Ltd, Huzhou,
  - (5) Huzhou Gaolin Stainless Steel Tube Manufacture Co.Ltd., Huzhou,
  - (6) Huzhou Zhongli Stainless Steel Pipe Co.Ltd., Huzhou,
  - (7) Jiangu Wuji Stainless Steel Pipe Group Co.Ltd., Beijing,
  - (8) Jiangyin Huachang Stainless Steel Pipe Co.Ltd., Jiangyin
  - (9) Lixue Group Co.Ltd., Ruian,
  - (10) Shanghai Crystal Palace Pipe Co.Ltd., Shanghai,
  - (11) Shanghai Baoluo Stainless Steel Tube Co., Ltd., Shanghai,
  - (12) Shanghai Shangshang Stainless Steel Pipe Co.Ltd., Shanghai,
  - (13) Shanghai Tianbao Stainless Steel Co.Ltd., Shanghai,
  - (14) Shanghai Tianyang Steel Tube Co.Ltd, Shanghai,
  - (15) Wenzhou Xindeda Stainless Steel Material Co.Ltd., Wenzhou,
  - (16) Wenzhou Baorui Steel Co.Ltd., Wenzhou,
  - (17) Zhejiang Conform Stainless Steel Tube Co.Ltd., Jixing,
  - (18) Zhejiang Easter Steel Pipe Co.Ltd., Jiaxing,
  - (19) Zhejiang Five - Star Steel Tube Manufacturing Co.Ltd., Wenzhou,
  - (20) Zhejiang Guobang Steel Co.Ltd., Lishui,
  - (21) Zhejiang Hengyuan Steel Co.Ltd., Lishui,
  - (22) Zhejiang Jiashang Stainless Steel Co.Ltd., Jiaxing City,
  - (23) Zhejiang Jinxin Stainless Steel Manufacture Co.Ltd., Xiping Town,
  - (24) Zhejiang Jiuli Hi-Tech Metals Co.Ltd., Huzhou,
  - (25) Zhejiang Kanglong Steel Co.Ltd., Lishui,
  - (26) Zhejiang Qiangli Stainless Steel Manufacture Co.Ltd., Xiping Town,
  - (27) Zhejiang Tianbao Industrial Co.Ltd., Wenzhou,
  - (28) Zhejiang Tsingshan Steel Pipe Co.Ltd., Lishui,
  - (29) Zhejiang Yida Special Steel Co.Ltd., Xiping Town.
-

*ANNEX II*

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

- (1) the name and function of the official of the entity issuing the commercial invoice;
- (2) the following declaration:

'I, the undersigned, certify that the (volume) of seamless pipes and tubes of stainless steel sold for export to the European Union covered by this invoice was manufactured by (company name and registered seat) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct.'

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**COMMISSION IMPLEMENTING REGULATION (EU) No 628/2011****of 28 June 2011****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors <sup>(2)</sup>, and in particular Article 136(1) thereof,

Whereas:

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 29 June 2011.

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

Done at Brussels, 28 June 2011.

*For the Commission,  
On behalf of the President,  
José Manuel SILVA RODRÍGUEZ  
Director-General for Agriculture and  
Rural Development*

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

<sup>(2)</sup> OJ L 157, 15.6.2011, p. 1.

## ANNEX

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

(EUR/100 kg)

| CN code    | Third country code <sup>(1)</sup> | Standard import value |
|------------|-----------------------------------|-----------------------|
| 0702 00 00 | AR                                | 23,1                  |
|            | EC                                | 23,1                  |
|            | MK                                | 48,7                  |
|            | TR                                | 40,0                  |
|            | ZZ                                | 33,7                  |
| 0707 00 05 | TR                                | 116,6                 |
|            | ZZ                                | 116,6                 |
| 0709 90 70 | EC                                | 28,8                  |
|            | TR                                | 113,1                 |
|            | ZZ                                | 71,0                  |
| 0805 50 10 | AR                                | 59,8                  |
|            | BR                                | 40,6                  |
|            | TR                                | 68,6                  |
|            | UY                                | 70,8                  |
|            | ZA                                | 107,6                 |
|            | ZZ                                | 69,5                  |
| 0808 10 80 | AR                                | 133,5                 |
|            | BR                                | 77,6                  |
|            | CA                                | 105,9                 |
|            | CL                                | 96,2                  |
|            | CN                                | 76,7                  |
|            | NZ                                | 114,3                 |
|            | US                                | 168,4                 |
|            | UY                                | 64,1                  |
|            | ZA                                | 94,8                  |
|            | ZZ                                | 103,5                 |
|            | 0809 10 00                        | AR                    |
| TR         |                                   | 293,0                 |
| XS         |                                   | 152,4                 |
| ZZ         |                                   | 178,4                 |
| 0809 20 95 | TR                                | 337,3                 |
|            | ZZ                                | 337,3                 |
| 0809 30    | EC                                | 116,4                 |
|            | TR                                | 179,1                 |
|            | XS                                | 55,8                  |
|            | ZZ                                | 117,1                 |

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

**COMMISSION IMPLEMENTING REGULATION (EU) No 629/2011****of 28 June 2011****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No 867/2010 for the 2010/11 marketing year**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (single CMO Regulation) <sup>(1)</sup>,Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector <sup>(2)</sup>, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

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

for the 2010/11 marketing year are fixed by Commission Regulation (EU) No 867/2010 <sup>(3)</sup>. These prices and duties have been last amended by Commission Implementing Regulation (EU) No 625/2011 <sup>(4)</sup>.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EU) No 867/2010 for the 2010/11 marketing year, are hereby amended as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 29 June 2011.

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

Done at Brussels, 28 June 2011.

*For the Commission,  
On behalf of the President,  
José Manuel SILVA RODRÍGUEZ  
Director-General for Agriculture and  
Rural Development*

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.<sup>(2)</sup> OJ L 178, 1.7.2006, p. 24.<sup>(3)</sup> OJ L 259, 1.10.2010, p. 3.<sup>(4)</sup> OJ L 168, 28.6.2011, p. 5.

## ANNEX

**Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 29 June 2011**

(EUR)

| CN code                   | Representative price per 100 kg net of the product concerned | Additional duty per 100 kg net of the product concerned |
|---------------------------|--|---|
| 1701 11 10 <sup>(1)</sup> | 49,75  | 0,00  |
| 1701 11 90 <sup>(1)</sup> | 49,75  | 0,00  |
| 1701 12 10 <sup>(1)</sup> | 49,75  | 0,00  |
| 1701 12 90 <sup>(1)</sup> | 49,75  | 0,00  |
| 1701 91 00 <sup>(2)</sup> | 51,93  | 1,89  |
| 1701 99 10 <sup>(2)</sup> | 51,93  | 0,00  |
| 1701 99 90 <sup>(2)</sup> | 51,93  | 0,00  |
| 1702 90 95 <sup>(3)</sup> | 0,52   | 0,21  |

<sup>(1)</sup> For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.

<sup>(2)</sup> For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.

<sup>(3)</sup> Per 1 % sucrose content.

# DECISIONS

## COUNCIL DECISION 2011/380/CFSP

of 28 June 2011

### amending Decision 2010/330/CFSP on the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX-IRAQ

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28 and 43(2) thereof,

Whereas:

- (1) On 14 June 2010, the Council adopted Decision 2010/330/CFSP <sup>(1)</sup> which extended the European Union Integrated Rule of Law Mission for Iraq, EUJUST LEX-IRAQ ('the Mission') for a further 24 months until 30 June 2012. The financial reference amount for the period from 1 July 2011 until 30 June 2012 is to be decided by the Council.
- (2) The mandate of the Mission is being carried out in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty.
- (3) Decision 2010/330/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Decision 2010/330/CFSP is hereby amended as follows:

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

'4. The training activities shall take place in Iraq and in the region as well as in the Union. EUJUST LEX-IRAQ shall have offices in Brussels and Baghdad, including an antenna in Basra, in preparation for a possible office opening, subject to an appropriate decision to that effect. EUJUST LEX-IRAQ shall also have an office in Erbil (Kurdistan Region).';

(2) in Article 11, paragraph 2 is replaced by the following:

'2. The financial reference amount intended to cover the expenditure related to the Mission between 1 July 2011 and 30 June 2012 shall be EUR 27 250 000.'.

#### *Article 2*

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

Done at Luxembourg, 28 June 2011.

*For the Council*  
*The President*  
FAZEKAS S.

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<sup>(1)</sup> OJ L 149, 15.6.2010, p. 12.

**COMMISSION DECISION****of 24 June 2011****on establishing the ecological criteria for the award of the EU Ecolabel to lubricants***(notified under document C(2011) 4447)***(Text with EEA relevance)**

(2011/381/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel <sup>(1)</sup>, and in particular Article 8(2) thereof,

After consulting the European Union Ecolabelling Board,

Whereas:

- (1) Under Regulation (EC) No 66/2010, the EU Ecolabel may be awarded to those products with a reduced environmental impact during their entire life cycle.
- (2) Regulation (EC) No 66/2010 provides that specific EU Ecolabel criteria are to be established according to product groups.
- (3) Commission Decision 2005/360/EC <sup>(2)</sup> has established the ecological criteria and the related assessment and verification requirements for lubricants which are valid until 30 June 2011.
- (4) Those criteria have been further reviewed in light of technological developments. The new criteria, as well as the related assessment and verification requirements, should be valid for 4 years from the date of adoption of this Decision
- (5) Decision 2005/360/EC should be replaced for reasons of clarity.
- (6) A transitional period should be allowed for producers whose products have been awarded the EU Ecolabel for lubricants on the basis of the criteria set out in Decision 2005/360/EC, so that they have sufficient time to adapt their products to comply with the revised criteria and requirements. Producers should also be allowed to submit applications based on the criteria set out in Decision 2005/360/EC or on the criteria set out in this Decision until the lapse of validity of that Decision.

- (7) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 16 of Regulation (EC) No 66/2010,

HAS ADOPTED THIS DECISION:

*Article 1*

The product group 'lubricants' shall comprise the following categories:

Category 1: hydraulic fluids and tractor transmission oils

Category 2: greases and stern tube greases

Category 3: chainsaw oils, concrete release agents, wire rope lubricants, stern tube oils and other total loss lubricants

Category 4: two-stroke oils

Category 5: industrial and marine gear oils.

*Article 2*

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

- (1) 'lubricant' means a preparation consisting of base fluids and additives;
- (2) 'basefluid' means a lubricating fluid whose flow, ageing, lubricity and anti-wear properties, as well as its properties regarding contaminant suspension, have not been improved by the inclusion of additive(s);
- (3) 'substance' means a chemical element and its compounds in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the products and any impurity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;
- (4) 'thickener' means one or more substances in the base fluid used to thicken or modify the rheology of a lubricating fluid or grease;

<sup>(1)</sup> OJ L 27, 30.1.2010, p. 1.<sup>(2)</sup> OJ L 118, 5.5.2005, p. 26.

- (5) 'main component' means any substance accounting for more than 5 % by weight of the lubricant;
- (6) 'additive' means a substance or mixture whose primary functions are the improvement of the flow, ageing, lubricity, anti-wear properties or of contaminant suspension;
- (7) 'grease' means a solid to semi-solid mixture which consists of a 'thickener' and may include other ingredients imparting special properties in a liquid lubricant.

#### Article 3

In order to be awarded the EU Ecolabel under Regulation (EC) No 66/2010 a product shall fall within the product group 'lubricants' as defined in Article 1 of this Decision and shall comply with the criteria as well as the related assessment and verification requirements set out in the Annex to this Decision.

#### Article 4

The ecological criteria for the product group 'lubricants', as well as the related assessment and verification requirements shall be valid for 4 years from the date of the adoption of this Decision.

#### Article 5

For administrative purposes, the code number assigned to the product group 'lubricants' shall be '027'.

#### Article 6

Decision 2005/360/EC is repealed.

#### Article 7

1. By derogation from Article 6, applications for the EU Ecolabel for products falling within the product group 'lubricants' submitted before the date of adoption of this Decision shall be evaluated in accordance with the conditions laid down in Decision 2005/360/EC.

2. Applications for the EU Ecolabel for products falling within the product group 'lubricants' submitted from the date of adoption of this Decision but by 30 June 2011 at the latest may be based either on the criteria set out in Decision 2005/360/EC or on the criteria set out in this Decision. Those applications shall be evaluated in accordance with the criteria on which they are based.

3. Where the EU Ecolabel is awarded on the basis of an application evaluated according to the criteria set out in Decision 2005/360/EC, that EU Ecolabel may be used for 12 months from the date of adoption of this Decision.

#### Article 8

This Decision is addressed to the Member States.

Done at Brussels, 24 June 2011.

For the Commission

Janez POTOČNIK

Member of the Commission

## ANNEX

## FRAMEWORK

**The aims of the criteria**

These criteria aim in particular at promoting products that have a reduced impact on the water and soil during its use and contain a large fraction of biobased material.

## CRITERIA

1. Excluded or limited substances and mixtures
2. Exclusion of specific substances
3. Additional aquatic toxicity requirements
4. Biodegradability and bioaccumulative potential
5. Renewable raw materials
6. Minimum technical performance
7. Information appearing on the EU Ecolabel

**Assessment and verification requirements**

## (a) Requirements

The specific assessment and verification requirements are indicated within each criterion.

Where the applicant is required to provide declarations, documentation, analyses, test reports, or other evidence to show compliance with the criteria to the competent body, it is understood that these may originate from the applicant and/or his supplier(s) and/or their supplier(s), etc. as appropriate.

The supplier of the additive, thickener or base fluid may provide the relevant information directly to the competent body.

Where possible, the testing should be performed by laboratories that meet the general requirements of EN ISO 17025 or equivalent.

Where appropriate, test methods other than those indicated for each criterion may be used if the competent body assessing the application accepts their equivalence.

Where appropriate, competent bodies may require supporting documentation and may carry out independent verifications.

The general scheme for the assessment of any constituent substance in a lubricant product is given in Table 1.

## (b) Measurement thresholds

All constituent substances that are present above 0,010 % (w/w) and which are intentionally added and/or are formed intentionally after any chemical reaction in the applied lubricant shall be unambiguously stated giving their names and the mass concentrations in which they are present and where applicable, their CAS Registry and EC registry number.

The criteria shall apply as follows:

- to the applied lubricant for criteria 1(a), 6 and 7,
- to each stated substance intentionally added or formed above 0,010 % (w/w) for criterion 1(b) and 2,
- to each stated substance intentionally added or formed above 0,10 % (w/w) for criteria 3, 4 and 5.

In addition the total fraction of the stated substances where the formulated criteria 3 and 4 do not apply shall remain below 0,5 % (w/w).

## EU ECOLABEL CRITERIA

**Criterion 1 – Excluded or limited substances and mixtures**

## (a) Hazardous substances and mixtures

According to the Article 6(6) of Regulation (EC) No 66/2010 on the EU Ecolabel, the product or any part of it shall not contain substances (in any forms, including nanoforms) meeting the criteria for classification with the hazard statements or risk phrases specified below in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council <sup>(1)</sup> or Council Directive 67/548/EEC <sup>(2)</sup> nor shall it contain substances referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(3)</sup>. The risk phrases below generally refer to substances. Nanoforms intentionally added to the product shall prove compliance with this criterion for any concentration.

List of hazard statements and risk phrases:

| Hazard Statement <sup>(1)</sup>  | Risk Phrase <sup>(2)</sup>                        |
|--|---|
| H300 Fatal if swallowed  | R28   |
| H301 Toxic if swallowed  | R25   |
| H304 May be fatal if swallowed and enters airways                              | R65   |
| H310 Fatal in contact with skin  | R27   |
| H311 Toxic in contact with skin  | R24   |
| H330 Fatal if inhaled  | R26   |
| H331 Toxic if inhaled  | R23   |
| H340 May cause genetic defects   | R46   |
| H341 Suspected of causing genetic defects                                      | R68   |
| H350 May cause cancer  | R45   |
| H350i May cause cancer by inhalation   | R49   |
| H351 Suspected of causing cancer   | R40   |
| H360F May damage fertility   | R60   |
| H360D May damage the unborn child  | R61   |
| H360FD May damage fertility. May damage the unborn child                       | R60; R61; R60-61                                  |
| H360Fd May damage fertility. Suspected of damaging the unborn child            | R60-R63   |
| H360Df May damage the unborn child. Suspected of damaging fertility            | R61-R62   |
| H361f Suspected of damaging fertility  | R62   |
| H361d Suspected of damaging the unborn child                                   | R63   |
| H361fd Suspected of damaging fertility. Suspected of damaging the unborn child | R62-63  |
| H362 May cause harm to breast fed children                                     | R64   |
| H370 Causes damage to organs   | R39/23; R39/24; R39/25;<br>R39/26; R39/27; R39/28 |
| H371 May cause damage to organs  | R68/20; R68/21; R68/22                            |

<sup>(1)</sup> OJ L 353, 31.12.2008, p. 1.

<sup>(2)</sup> OJ 196, 16.8.1967, p. 1.

<sup>(3)</sup> OJ L 396, 30.12.2006, p. 1.

| Hazard Statement <sup>(1)</sup>  | Risk Phrase <sup>(2)</sup> |
|--|----------------------------|
| H372 Causes damage to organs through prolonged or repeated exposure    | R48/25; R48/24; R48/23     |
| H373 May cause damage to organs through prolonged or repeated exposure | R48/20; R48/21; R48/22     |
| H400 Very toxic to aquatic life  | R50                        |
| H410 Very toxic to aquatic life with long-lasting effects              | R50-53                     |
| H411 Toxic to aquatic life with long-lasting effects                   | R51-53                     |
| H412 Harmful to aquatic life with long-lasting effects                 | R52-53                     |
| H413 May cause long-lasting harmful effects to aquatic life            | R53                        |
| EUH059 Hazardous to the ozone layer                                    | R59                        |
| EUH029 Contact with water liberates toxic gas                          | R29                        |
| EUH031 Contact with acids liberates toxic gas                          | R31                        |
| EUH032 Contact with acids liberates very toxic gas                     | R32                        |
| EUH070 Toxic by eye contact  | R39-41                     |

<sup>(1)</sup> As provided for in Regulation (EC) No 1272/2008.

<sup>(2)</sup> As provided for in Directive 67/548/EEC.

This criterion shall also apply to the following hazard statements and risk phrases:

| Hazard Statement <sup>(1)</sup>   | Risk Phrase <sup>(2)</sup> |
|---|----------------------------|
| H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled | R42                        |
| H317: May cause allergic skin reaction  | R43                        |
| H314 Causes severe skin burns and eye damage                                    | R34; R35                   |
| H319 Causes serious eye irritation  | R36                        |
| H315 Causes skin irritation   | R38                        |
| EUH066 Repeated exposure may cause skin dryness or cracking                     | R66                        |
| H336 May cause drowsiness and dizziness   | R67                        |

<sup>(1)</sup> As provided for in Regulation (EC) No 1272/2008.

<sup>(2)</sup> As provided for in Directive 67/548/EEC.

Substances or mixtures which change their properties upon processing (e.g. become no longer bioavailable, undergo chemical modification) so that the identified hazard no longer applies are exempted from the above requirement.

Concentration limits for substances meeting criteria of Article 57(a), (b) or (c) of Regulation (EC) No 1907/2006 shall not exceed 0,010 % (w/w). If specific concentration limits are referred to for substances meeting criteria of Article 57(a), (b) or (c) they should remain below one tenth (1/10) of the lowest specific concentration value indicated unless this value falls below 0,010 % (w/w).

Derogations from Criterion 1(a) are listed in Table 1.

*Assessment and verification of criterion:* the applicant shall provide the exact formulation of the product to the competent body. The applicant shall demonstrate compliance with this criterion for substances in the product on the basis of information consisting as a minimum of that specified in Annex VII to the Regulation (EC) No 1907/2006. Such information shall be specific to the particular form of the substance, including nanoforms, used in the product. For that purpose, the applicant shall provide a declaration of compliance with this criterion, together with a list of ingredients and related Safety Data Sheets in accordance with Annex II to Regulation (EC) No 1907/2006 for the product as well as for all substances listed in the formulation(s). Concentration limits shall be specified in the Safety Data Sheets in accordance with Article 31 of Regulation (EC) No 1907/2006.

Sufficient data shall be available to allow for the evaluation of the environmental hazards (indicated by the hazard statements H400 – H413 or R-phrases: R 50, R 50/53, R 51/53, R 52, R 52/53, R 53), of the product in accordance with Regulation (EC) No 1272/2008 or Directive 67/548/EEC and Directive 1999/45/EC of the European Parliament and of the Council <sup>(1)</sup>.

The evaluation of a product for hazards to the environment shall be performed by the conventional method as indicated in Annex III to Directive 1999/45/EC or by the summation method in Section 4.1.3.5.2 of Regulation (EC) No 1272/2008. However, as defined by Part C of Annex III to Directive 1999/45/EC or by Section 4.1.3.3 of Regulation (EC) No 1272/2008, the results of testing the preparation (either the product preparation or the additive package) as such can be used to modify the classification concerning the aquatic toxicity that would have been obtained using the conventional or summation method.

(b) Substances listed in accordance with Article 59(1) of Regulation (EC) No 1907/2006

No derogation from the exclusion in Article 6(6) of Regulation (EC) No 66/2010 may be given concerning substances identified as substances of very high concern and included in the list foreseen in Article 59 of Regulation (EC) No 1907/2006, when present in mixtures, in concentrations higher than 0,010 % (w/w).

*Assessment and verification:* the list of substances identified as substances of very high concern and included in the candidate list in accordance with Article 59 of Regulation (EC) No 1907/2006 can be found here:

[http://echa.europa.eu/chem\\_data/authorisation\\_process/candidate\\_list\\_table\\_en.asp](http://echa.europa.eu/chem_data/authorisation_process/candidate_list_table_en.asp)

Reference to the list shall be made on the date of application.

Concentration limits shall be specified in the Safety Data Sheets according to Annex II, paragraph 3.2.1(c) of Commission Regulation (EU) No 453/2010 <sup>(2)</sup>.

#### **Criterion 2 – Exclusion of specific substances**

The following stated substances are not allowed in quantities exceeding 0,010 % (w/w) of the final product:

- substances appearing in the Union List of priority substances in the field of water policy in Annex X to Directive 2000/60/EC of the European Parliament and of the Council <sup>(3)</sup> as amended by laid in Decision No 2455/2001/EC of the European Parliament and of the Council <sup>(4)</sup> and the OSPAR List of Chemicals for Priority Action ([http://www.ospar.org/content/content.asp?menu=00950304450000\\_000000\\_000000](http://www.ospar.org/content/content.asp?menu=00950304450000_000000_000000)),
- organic halogen compounds and nitrite compounds,
- metals or metallic compounds with the exception of sodium, potassium, magnesium and calcium. In the case of thickeners, also lithium and/or aluminium compounds may be used up to concentrations limited by the other criteria included in the Annex to this Decision.

*Assessment and verification:* conformance with these requirements shall be stated in writing and signed by the applicant.

#### **Criterion 3 – Additional aquatic toxicity requirements**

The applicant shall demonstrate compliance by meeting the requirements of either criterion 3.1 or criterion 3.2.

##### **Criterion 3.1. – Requirements for the lubricant and its main components**

Acute aquatic toxicity data of the main components and the mixture shall be provided.

Acute aquatic toxicity data for each main component shall be stated on each of the following two trophic levels: algae and daphnia <sup>(5)</sup>. The critical concentration for the acute aquatic toxicity for each main component shall be at least 100 mg/L.

Acute aquatic toxicity data for the applied lubricant shall be stated on each of the following three trophic levels: algae, daphnia and fish. The critical concentration for the acute aquatic toxicity for a lubricant in Category 1 and 5 shall be at least 100 mg/L and for a lubricant in Category 2, 3 and 4 at least 1 000 mg/L.

Table 2 summarises the requirements for the different lubricant categories according to criterion 3.1.

<sup>(1)</sup> OJ L 200, 30.7.1999, p. 1.

<sup>(2)</sup> OJ L 133, 31.5.2010, p. 1.

<sup>(3)</sup> OJ L 327, 22.12.2000, p. 1.

<sup>(4)</sup> OJ L 331, 15.12.2001, p. 1.

<sup>(5)</sup> Crustacean can substitute for daphnia throughout this Decision where marine data is submitted.

*Assessment and verification:* either marine or freshwater toxicity data are accepted. The tests are carried out according to and using relevant test species mentioned in the following guidelines: ISO/DIS 10253 or OECD 201 or Part C.3 of the Annex to Council Regulation (EC) No 440/2008 <sup>(1)</sup> for algae, ISO TC 147/SC5/WG2 or OECD 202 or Part C.2 of the Annex to Regulation (EC) No 440/2008 for daphnia and OECD 203 or Part C.1 of the Annex to Regulation (EC) No 440/2008 for fish. Equivalent test methods as agreed with a competent body are also permitted. Only (72hr) $E_r$ C50 for algae, (48hr)EC50 for daphnia and (96hr)LC50 for fish are accepted.

### **Criterion 3.2. – Requirements for each stated substance present above 0,10 % (w/w)**

Chronic toxicity test results in the form of No Observed Effect Concentration (NOEC) data shall be stated on each of the following two aquatic trophic levels: daphnia and fish.

In case chronic toxicity test results are missing, acute aquatic toxicity tests results shall be provided for each of the following two trophic levels; algae and daphnia. One or more substances exhibiting a certain degree of aquatic toxicity are allowed in each of the five lubricant categories for a cumulative mass concentration as indicated in Table 1.

*Assessment and verification:* No Observed Effect Concentration (NOEC) data on the two trophic levels, daphnia and fish, are established by the following test methods: Part C.20 and Part C.14 of the Annex to Regulation (EC) No 440/2008 for daphnia and fish respectively, or equivalent test methods as agreed with a competent body.

Either marine or freshwater acute toxicity data are accepted on algae and daphnia. The tests in marine water are carried out according to and using relevant test species mentioned in the following guidelines: ISO/DIS 10253 or OECD 201 or Part C.3 of the Annex to Regulation (EC) No 440/2008 for algae, ISO TC 147/SC5/WG2 or OECD 202 or Part C.2 of the Annex to Regulation (EC) No 440/2008 for daphnia and OECD 203 or Part C.1 of the Annex to Regulation (EC) No 440/2008 for fish. Equivalent test methods as agreed with a competent body are also permitted. Only (72hr) $E_r$ C50 for algae and (48hr)EC50 for daphnia are accepted.

*Assessment and verification for Criteria 3.1 and 3.2:* high quality test reports or literature data (testing according to acceptable protocols and GLP) including the references shall be submitted to the competent body demonstrating compliance with the requirements set out for the aquatic toxicity in Table 1.

In the case of slightly soluble substances or preparations (< 10 mg/L) the method of the water-accommodated fraction (WAF) can be used in the aquatic toxicity determination. The established loading level, sometimes referred to as LL50 and related to the lethal loading, may be used directly in the classification criteria. The preparation of a water-accommodated fraction shall follow the recommendations set out according to one of the following guidelines: ECETOC Technical Report No 20 (1986), Annex III to OECD 1992 301 or the ISO Guidance document ISO 10634, or ASTM D6081-98 (Standard practice for Aquatic Toxicity Testing for Lubricants: Sample Preparation and Results Interpretation or equivalent methods). In addition, demonstration of the absence of toxicity for a substance at its limit of water solubility shall be deemed to have met the requirements of this criterion.

An aquatic toxicity study does not need to be conducted when:

- the classification of the substance, base fluid or additive is already stated on the Lubricant Substance Classification list,  
or
- a valid letter of compliance from a competent body can be submitted, or
- the substance is unlikely to cross biological membranes  $MM > 800$  g/mol or molecular diameter  $> 1,5$  nm ( $> 15$  Å),  
or
- the substance is a polymer and its molecular weight fraction below 1 000 g/mol is less than 1 %, or
- the substance is highly insoluble in water (water solubility  $< 10$  µg/l),

as such substances are not regarded as toxic for algae and daphnia in the aquatic system.

The water solubility of substances shall be determined where appropriate according to OECD 105 or equivalent test methods.

The molecular weight fraction below 1 000 g/mol of a polymer shall be determined according to Part A.19 of the Annex to Regulation (EC) No 440/2008 or equivalent test methods.

### **Criterion 4 – Biodegradability and bioaccumulative potential**

Requirements for the biodegradability and bioaccumulative potential shall be fulfilled for each stated substance present above 0,10 % (w/w).

The lubricant shall not contain substances that are both: non-biodegradable and (potentially) bioaccumulative.

<sup>(1)</sup> OJ L 142, 31.5.2008, p. 1.

However, the lubricant may contain one or more substances with a certain degree of degradability and potential or actual bioaccumulation up to a cumulative mass concentration as indicated in Table 1.

*Assessment and verification:* conformity shall be demonstrated by providing the following information:

High quality test reports or literature data (testing according to acceptable protocols and GLP) including the references on the biodegradability and when required on the (potential) bioaccumulation of each constituent substance.

#### 4.1. Biodegradation

A substance is considered *ultimately biodegradable* (aerobic) if:

1. In a 28-day biodegradation study according Part C.4 of the Annex to Regulation (EC) No 440/2008, OECD 306, OECD 310 the following levels of biodegradation are achieved:

- in the ultimately biodegradable tests based upon dissolved organic carbon  $\geq 70\%$ ,
- in the ultimately biodegradable tests based upon oxygen depletion or carbon dioxide generation  $\geq 60\%$  of the theoretical maxima.

In these ultimately biodegradable tests the 10-day window principle will not necessarily apply. If the substance reaches the biodegradation pass level within 28 days but not within the 10-day time-window, a slower degradation rate is assumed.

2. The BOD5/ThOD or BOD5/COD ratio  $\geq 0,5$ . The BOD5/(ThOD or COD) ratio can only be used if no data based on Part C.4 of the Annex to Regulation (EC) No 440/2008, OECD 306 or OECD 310 or any other equivalent test methods are available. The BOD5 shall be assessed according to Part C.5 of the Annex to Regulation (EC) No 440/2008 or equivalent methods while the COD shall be assessed according to Part C.6 of the Annex to Regulation (EC) No 440/2008 or equivalent methods.

A substance is considered *inherently biodegradable* if it shows:

- a biodegradation  $> 70\%$  in the Part C.9 of the Annex to Regulation (EC) No 440/2008 or OECD 302 C test for inherent biodegradation or equivalent methods, or
- a biodegradation  $> 20\%$  but  $< 60\%$  after 28 days in Part C.4 of the Annex to Regulation (EC) No 440/2008, OECD 306, OECD 310 tests based on oxygen depletion or carbon dioxide generation or equivalent methods.

The biodegradation test does not need to be conducted when:

- the classification of the substance, base fluid or additive is already stated on the Lubricant Substance Classification list or a valid letter of compliance from a competent body can be submitted,
- a substance is non-biodegradable if it fails the criteria for ultimate and inherent biodegradability.

The applicant may also use read-across data to estimate the biodegradability of a substance. 'Read-across' for the assessment of the biodegradability of a substance shall be acceptable if the reference substance differs by only one functional group or fragment from the substance applied in the product. If the reference substance is readily or inherently biodegradable and the functional group has a positive effect on the aerobic biodegradation then the applied substance may also be regarded as readily or inherently biodegradable. Functional groups or fragments with a positive effect on the biodegradation are: aliphatic and aromatic alcohol [-OH], aliphatic and aromatic acid [-C(=O)-OH], aldehyde [-CHO], Ester [-C(=O)-O-C], amide [-C(=O)-N or -C(S)-N]. Adequate and reliable documentation of the study on the reference substance should be provided. In case of a comparison with a fragment, not included here above, adequate and reliable documentation of the studies should be provided on the positive effect of the functional group on the biodegradation of structurally similar substances.

#### 4.2. Bioaccumulation

The (potential) bioaccumulation does not need to be established when the substance:

- has a MM  $> 800$  g/mol, or
- has a molecular diameter  $> 1,5$  nm ( $> 15$  Å), or
- has an octanol-water partition coefficient,  $\log K_{ow}$ , value of  $< 3$  or  $> 7$ , or
- has a measured BCF of  $\leq 100$  L/kg, or
- is a polymer and its molecular weight fraction below 1 000 g/mol is less than 1 %.

Since most substances used in lubricants are quite hydrophobic the BCF-value should be based on the lipid weight content and care must be shown to ensure a sufficient exposure time.

The bioconcentration factor (BCF) shall be assessed according to Part C.13 of the Annex to Regulation (EC) No 440/2008 or equivalent test methods.

The log octanol/water partition coefficient ( $\log K_{ow}$ ) shall be assessed according to Part A.8 of the Annex to Regulation (EC) No 440/2008 or OECD 123 or equivalent test methods. In case of an organic substance other than a surfactant where no experimental value is available, a calculation method can be used. The following calculation methods are allowed: CLOGP, LOGKOW, (KOWWIN) and SPARC. Estimated  $\log K_{ow}$  values by any of these calculation methods  $< 3$  or  $> 7$  indicates that the substance is not expected to bioaccumulate.

$\log K_{ow}$  values are applicable to organic chemicals only. To assess the bioaccumulation potential of non-organic compounds, surfactants, and some organo-metallic compounds, BCF measurements shall be carried out.

#### **Criterion 5 – Renewable raw materials**

The formulated product shall have a carbon content derived from renewable raw materials that shall be:

- $\geq 50$  % (m/m) for Category 1,
- $\geq 45$  % (m/m) for Category 2,
- $\geq 70$  % (m/m) for Category 3,
- $\geq 50$  % (m/m) for Category 4,
- $\geq 50$  % (m/m) for Category 5.

Carbon content derived from renewable raw material means the mass percentage of component A  $\times$  [number of C-atoms in component A, which are derived from (vegetable) oils or (animal) fats divided by the total number of C-atoms in component A] plus mass percentage of component B  $\times$  [number of C-atoms in component B, which are derived from (vegetable) oils or (animal) fats divided by the total number of C-atoms in component B] plus the mass percentage of component C  $\times$  [number of C-atoms in component C, which are derived from (vegetable) oils or (animal) fats divided by the total number of C-atoms in component C], and so on.

The applicant shall indicate on the application form the type (s), source(s) and origin of the renewable material(s) of the main components.

*Assessment and verification:* the applicant shall provide the competent body with a declaration of compliance with this criterion.

#### **Criterion 6 – Minimum technical performance**

- (a) For Hydraulic fluids: at least the technical performance criteria as laid down in the current ISO 15380, Tables 2 to 5. The supplier shall list on his product information sheet which 2 elastomers have been tested.
- (b) For Industrial and marine gear oils: at least the technical performance requirements as in the DIN 51517. The supplier shall list on his product information sheet which Section (I, II or III) was selected.
- (c) For chainsaw oils: at least the technical performance criteria as laid down in the RAL UZ 48 of the Blue Angel.
- (d) For two-stroke oils for marine applications: at least the technical performance criteria laid down in 'NMMA Certification for Two-Stroke Cycle Gasoline Engine Lubricants' of NMMA TC-W3.
- (e) For two-stroke oils for terrestrial applications: at least meet the EGD level of technical performance criteria laid down in ISO 13738:2000.
- (f) For all other lubricants: fit for purpose.

*Assessment and verification:* the applicant shall provide the competent body with a declaration of compliance with this criterion, together with related documentation.

#### **Criterion 7 – Information appearing on the eco-label**

Optional label with text box shall contain the following text:

- '— Reduced harm for water and soil during use
- Contain a large fraction of biobased material'.

The guidelines for the use of the optional label with text box can be found in the 'Guidelines for the use of the EU Ecolabel logo' on the website: [http://ec.europa.eu/environment/ecolabel/promo/logos\\_en.htm](http://ec.europa.eu/environment/ecolabel/promo/logos_en.htm)

*Assessment and verification:* the applicant shall provide the competent body with a sample of the product packaging showing the label, together with a declaration of compliance with this criterion.

Table 1

**Criteria for the lubricant and each stated substance**

|   | Category 1  | Category 2  | Category 3  | Category 4  | Category 5  |      |
|---|---|---|---|---|---|------|
| Category  |   |   |   |   |   |      |
| Criteria  | Hydraulic fluids, tractor transmission oils   | Greases, stern tube greases   | Chain saw oils, concrete release agents, wire rope lubricants and other total loss lubricants | Terrestrial and marine two-stroke oils  | Industrial and marine gear oils   |      |
| Hazard statements and R-phrases indicating environmental and human health hazards<br>(Derogation for Criterion 1(a))  | Category 1  | Category 2  | Category 3  | Category 4  | Category 5  |      |
| Health or Environmental Hazard statement or R-phrase of the lubricant at the time of application  | None<br>(Lowest classification limit in Regulation (EC) No 1272/2008 or Directive 1999/45/EC) | None<br>(Lowest classification limit in Regulation (EC) No 1272/2008 or Directive 1999/45/EC) | None<br>(Lowest classification limit in Regulation (EC) No 1272/2008 or Directive 1999/45/EC) | None<br>(Lowest classification limit in Regulation (EC) No 1272/2008 or Directive 1999/45/EC) | None<br>(Lowest classification limit in Regulation (EC) No 1272/2008 or Directive 1999/45/EC) |      |
| Exclusion of specific substances<br>(Criterion 1(b) and 2)  | Category 1  | Category 2  | Category 3  | Category 4  | Category 5  |      |
| OSPAR-listed; the Union list of priority substances in the field of water policy; organic halogens; nitrites; metals and metallic compounds except Na, K, Mg, Ca and for thickeners Li, Al; CMR cat 1,2 (R45, R46, R49, R60 or R61); the candidate list for Annex XIV to Regulation (EC) No 1907/2006 | < 0,010 %   | < 0,010 %   | < 0,010 %   | < 0,010 %   | < 0,010 %   |      |
| Aquatic toxicity<br>(Criterion 3.2 only)  | Cumulative mass percentages (% w/w) of substances present in                                  |   |   |   |   |      |
|   | Category 1  | Category 2  | Category 3  | Category 4  | Category 5  |      |
| Not toxic (D)   | Acute toxicity > 100 mg/L<br>or<br>NOEC > 10 mg/L   |   |   |   |   |      |
|   | Not limited   |   |   |   |   |      |
| Harmful (E)   | 10 mg/L < Acute toxicity ≤ 100 mg/L<br>or<br>1 mg/L < NOEC ≤ 10 mg/L                          | ≤ 20  | ≤ 25  | ≤ 5   | ≤ 25  | ≤ 20 |

| Aquatic toxicity<br>(Criterion 3.2 only)  |   | Cumulative mass percentages (% w/w) of substances present in |  |  |  |            |
|---|---|--|--|--|--|------------|
|   |   | Category 1   | Category 2   | Category 3   | Category 4                                   | Category 5 |
| Toxic (F)   | 1 mg/L < Acute toxicity ≤ 10 mg/L<br>or<br>0,1 mg/L < NOEC ≤ 1 mg/L                     | ≤ 5  | ≤ 1  | ≤ 0,5  | ≤ 1  | ≤ 5        |
| Very toxic (G)  | Acute toxicity ≤ 1 mg/L<br>or<br>NOEC ≤ 0,1 mg/L  | ≤ 0,1/M (*)  | ≤ 0,1/M (*)  | ≤ 0,1/M (*)  | ≤ 0,1/M (*)                                  | ≤ 1/M (*)  |
| Biodegradation and Bioaccumulation<br>(Criterion 4)   |   | Cumulative mass percentages (%w/w) of substances present in  |  |  |  |            |
|   |   | Category 1   | Category 2   | Category 3   | Category 4                                   | Category 5 |
| Ultimately aerobically biodegradable (A)  |   | > 90   | > 75   | > 90   | > 75   | > 90       |
| Inherently aerobically biodegradable (B)  |   | ≤ 5  | ≤ 25   | ≤ 5  | ≤ 20   | ≤ 5        |
| Non-biodegradable AND non-bioaccumulative (C)   |   | ≤ 5  |  | ≤ 5  | ≤ 10   | ≤ 5        |
| Non-biodegradable AND bioaccumulative (X)   |   | ≤ 0,1  | ≤ 0,1  | ≤ 0,1  | ≤ 0,1  | ≤ 0,1      |
| Fraction not assessed on aquatic toxicity (Criterion 3.2) or biodegradation/bioaccumulation (Criterion 4) |   | Cumulative mass percentages (%w/w) of substances present in  |  |  |  |            |
|   |   | Category 1   | Category 2   | Category 3   | Category 4                                   | Category 5 |
|   |   | < 0,5  | < 0,5  | < 0,5  | < 0,5  | < 0,5      |
| Renewability<br>(Criterion 5)   |   | Cumulative mass percentages (%w/w) of substances present in  |  |  |  |            |
|   |   | Category 1   | Category 2   | Category 3   | Category 4                                   | Category 5 |
| Based on carbon   |   | ≥ 50 %   | ≥ 45 %   | ≥ 70 %   | ≥ 50 %                                       | ≥ 50 %     |
|   |   | Category 1   | Category 2   | Category 3   | Category 4                                   | Category 5 |
| Minimal Technical performance<br>(Criterion 6)  | Hydraulic fluids: ISO 15380 Tables 2 to 5<br>Tractor transmission oils: fit for purpose | Fit for purpose  | Chain saw oils: as in RAL UZ 48<br>Others: fit for purpose | Marine 2T-oils: as in NMMA TC-W3.<br>Terrestrial 2T-oils: as the EGD level in ISO 13738:2000 | Industrial and marine gear oils<br>DIN 51517 |            |

(\*) M is the multiplication factor of 10 for substances that are very toxic to the aquatic environment as from Table 1b in Commission Directive 2006/8/EC (OJ L 19, 24.1.2006, p. 12).

| multiplication factor (M) | LC50 or EC50 value (L(E)C50) of substance |
|---------------------------|---|
| 1                         | $0,1 < L(E)C50 \leq 1$                    |
| 10                        | $0,01 < L(E)C50 \leq 0,1$                 |
| 100                       | $0,001 < L(E)C50 \leq 0,01$               |
| 1 000                     | $0,0001 < L(E)C50 \leq 0,001$             |

For substances with a lower LC50 or EC50 value than 0,0001 mg/L, the corresponding concentration limits are calculated accordingly (in factor 10 intervals).

Table 2

**Aquatic toxicity requirements for the different lubricant categories — Data requirements for the lubricant and its main components**

| Criterion 3.1  | Category 1 | Category 2   | Category 3   | Category 4   | Category 5 |
|--|------------|--------------|--------------|--------------|------------|
| Acute aquatic toxicity for the freshly prepared lubricant on three trophic levels, algae, daphnia and fish | > 100 mg/L | > 1 000 mg/L | > 1 000 mg/L | > 1 000 mg/L | > 100 mg/L |
| Acute aquatic toxicity for each main component on each of two trophic levels, algae and daphnia            | > 100 mg/L | > 100 mg/L   | > 100 mg/L   | > 100 mg/L   | > 100 mg/L |

**COMMISSION DECISION****of 24 June 2011****on establishing the ecological criteria for the award of the EU Ecolabel to hand dishwashing detergents***(notified under document C(2011) 4448)***(Text with EEA relevance)***(2011/382/EU)*

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel <sup>(1)</sup>, and in particular Article 8(2) thereof,

After consulting the European Union Eco-labelling Board,

Whereas:

- (1) Under Regulation (EC) No 66/2010, the EU Ecolabel may be awarded to those products with a reduced environmental impact during their entire life cycle.
- (2) Regulation (EC) No 66/2010 provides that specific EU Ecolabel criteria are to be established according to product groups.
- (3) Commission Decision 2005/342/EC <sup>(2)</sup> has established the ecological criteria and the related assessment and verification requirements for hand dishwashing detergents which are valid until 30 June 2011.
- (4) Those criteria have been further reviewed in the light of technological developments. The new criteria, as well as the related assessment and verification requirements, should be valid for 4 years from the date of adoption of this Decision.
- (5) Decision 2005/342/EC should be replaced for reasons of clarity.
- (6) A transitional period should be allowed for producers whose products have been awarded the Ecolabel for hand dishwashing detergents on the basis of the criteria

set out in Decision 2005/342/EC, so that they have sufficient time to adapt their products to comply with the revised criteria and requirements. Producers should also be allowed to submit applications based on the criteria set out in Decision 2005/342/EC or on the criteria set out in this Decision until the lapse of validity of that Decision.

- (7) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 16 of Regulation (EC) No 66/2010,

HAS ADOPTED THIS DECISION:

*Article 1*

The product group 'hand dishwashing detergents' shall comprise all detergents intended to be used to wash by hand dishes, crockery, cutlery, pots, pans, kitchen utensils and so on.

The product group shall cover products for both private and professional use. The products shall be a mixture of chemical substances and must not contain microorganisms that have been deliberately added by the manufacturer.

*Article 2*

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

1. 'substance' means a chemical element and its compounds in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product and any impurity deriving from the process used but excluding any solvent, which may be separated without affecting the stability of the substance or changing its composition;
2. 'product' (or mixture) means a mixture or solution of two or more substances, which do not react.

*Article 3*

In order to be awarded the EU Ecolabel under Regulation (EC) No 66/2010, an item of hand dishwashing detergent shall fall within the product group 'hand dishwashing detergents' as defined in Article 1 of this Decision and shall comply with the criteria as well as the related assessment and verification requirements set out in the Annex to this Decision.

<sup>(1)</sup> OJ L 27, 30.1.2010, p. 1.

<sup>(2)</sup> OJ L 115, 4.5.2005, p. 9.

*Article 4*

The criteria for the product group 'hand dishwashing detergents', as well as the related assessment and verification requirements, shall be valid for 4 years from the date of adoption of this Decision.

*Article 5*

For administrative purposes the code number assigned to the product group 'hand dishwashing detergents' shall be '019'.

*Article 6*

Decision 2005/342/EC is repealed.

*Article 7*

1. By derogation from Article 6, applications for the EU Ecolabel for products falling within the product group 'hand dishwashing detergents' submitted before the date of adoption of this Decision shall be evaluated in accordance with the conditions laid down in Decision 2005/342/EC.

2. Applications for the EU Ecolabel for products falling within the product group 'hand dishwashing detergents'

submitted from the date of adoption of this Decision but by 30 June 2011 at the latest may be based either on the criteria set out in Decision 2005/342/EC or on the criteria set out in this Decision. Those applications shall be evaluated in accordance with the criteria on which they are based.

3. Where the Ecolabel is awarded on the basis of an application evaluated in accordance with the criteria set out in Decision 2005/342/EC, that Ecolabel may be used for 12 months from the date of adoption of this Decision.

*Article 8*

This Decision is addressed to the Member States.

Done at Brussels, 24 June 2011.

*For the Commission*

Janez POTOČNIK

*Member of the Commission*

## ANNEX

**FRAMEWORK****The aims of the criteria**

These criteria aim, in particular, at promoting products that have a reduced discharges of toxic or otherwise polluting substances into the aquatic environment, reducing or preventing risks to health or the environment related to the use of hazardous substances, minimising packaging waste, providing information that will enable the consumer to use the product in the way that is efficient and minimising environmental impact.

**CRITERIA**

1. Toxicity to aquatic organisms
2. Biodegradability of surfactants
3. Excluded or limited substances and mixtures
4. Fragrances
5. Corrosive properties
6. Packaging requirements
7. Fitness for use
8. User instructions
9. Information appearing on the EU Ecolabel

**Assessment and verification requirements****(a) Requirements**

The specific assessment and verification requirements are indicated within each criterion.

Where the applicant is required to provide declarations, documentation, analyses test reports, or other evidence to show compliance with the criteria, it is understood that these may originate from the applicant and/or his supplier(s) and/or their supplier(s), etc as appropriate.

Where possible, the testing should be performed by laboratories that meet the general requirements of EN ISO 17025 or equivalent.

Where appropriate, test methods other than those indicated for each criterion may be used if the competent body assessing the application accepts their equivalence.

Appendix I makes reference to the Detergents Ingredients Database (DID) list which contains the most widely used ingredients used in detergent formulations. It shall be used for deriving the data for the calculations of the Critical Dilution Volume (CDV) and for the assessment of the biodegradability of the ingredients. For substances not present on the DID list, guidance is given on how to calculate or extrapolate the relevant data. The latest version of the DID list is available from the EU Ecolabel website or via the websites of the individual competent bodies.

Where appropriate, competent bodies may require supporting documentation and may carry out independent verifications.

**(b) Measurement thresholds**

All substances in the product, including additives (e.g. preservatives or stabilisers) in the ingredients, of which the concentration exceeds 0,010 % by weight of the final formulation shall comply with the EU Ecolabel criteria except for criterion 1, where each intentionally added substance should be included, irrespective of its weight. Impurities resulting from the production of the ingredients which are present in concentrations > 0,010 % by weight of the final formulation shall also comply with the criteria.

## (c) Reference dosage

For hand dishwashing detergents, the dosage in grams of the product recommended by the manufacturer for preparing 1 litre of dishwashing water for cleaning of normally soiled dishes is taken as the reference dosage for the calculations aiming at documenting compliance with the EU Ecolabel criteria and for testing of cleaning ability.

**EU ECOLABEL CRITERIA****Criterion 1 — Toxicity to aquatic organisms**

The critical dilution volume ( $CDV_{\text{chronic}}$ ) is calculated for each substance (i) using the following equation:

$$CDV_{\text{chronic}} = \sum CDV_{(i)} = \sum \frac{\text{weight}_{(i)} \times DF_{(i)}}{TF_{\text{chronic}(i)}} \times 1\,000$$

where  $\text{weight}_{(i)}$  is the weight of the substance (in grams) contained in the dosage recommended by the manufacturer for 1 litre of dishwashing water.  $DF_{(i)}$  is the degradation factor and  $TF_{\text{chronic}(i)}$  is the toxicity factor of the substance (in milligrams/litre).

The values of DF and TF chronic shall be as given in the detergent ingredient database list part A (DID list part A) (Appendix I). If the substance in question is not included in the DID list part A, the applicant shall estimate the values following the approach described in the DID list part B (Appendix I). The  $CDV_{\text{chronic}}$  is summed for each substance, making the  $CDV_{\text{chronic}}$  for the product.

The  $CDV_{\text{chronic}}$  shall be calculated on the basis of the dosage in grams of the product recommended by the manufacturer for preparing 1 litre of dishwashing water for cleaning of normally soiled dishes. The  $CDV_{\text{chronic}}$  of the recommended dose expressed for 1 litre of dishwashing water shall not exceed 3 800 litres.

*Assessment and verification:* the exact formulation of the product shall be provided to the competent body, together with the details of the  $CDV_{\text{chronic}}$  calculations showing compliance with this criterion.

**Criterion 2 — Biodegradability of surfactants**

## (a) Ready biodegradability (aerobic)

Each surfactant used in the product shall be readily biodegradable.

*Assessment and verification:* the exact formulation of the product as well as a description of the function of each substance shall be provided to the competent body. The DID list part A (Appendix I) indicates whether a specific surfactant is aerobically biodegradable or not (the surfactants with an entry of 'R' in the column on aerobic biodegradability are readily biodegradable). For surfactants which are not included in the DID list part A, the relevant information from literature or other sources, or appropriate test results, showing that they are aerobically biodegradable shall be provided. The tests for ready biodegradability shall be as referred to in Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents<sup>(1)</sup>. Surfactants shall be considered as readily biodegradable if the level of biodegradability (mineralisation) measured in accordance with one of the five following tests is at least 60 % within 28 days: CO<sub>2</sub> headspace test (OECD 310), carbon dioxide (CO<sub>2</sub>) Evolution Modified Sturm test (OECD 301B; Council Regulation (EC) No 440/2008<sup>(2)</sup> method C.4-C), Closed Bottle test (OECD 301D; Regulation (EC) No 440/2008 method C.4-E), Manometric Respirometry (OECD 301F; Regulation (EC) No 440/2008 method C.4-D), or MITI (I) test (OECD 301C; Regulation (EC) No 440/2008 method C.4-F), or their equivalent ISO tests. Depending on the physical characteristics of the surfactant, one of the following tests might be used to confirm ready biodegradability, if the level of biodegradability is at least 70 % within 28 days: Dissolved Organic Carbon DOC Die-Away (OECD 301A; Regulation (EC) No 440/2008 method C.4-A) or Modified OECD Screening DOC Die-Away (OECD 301E; Regulation (EC) No 440/2008 method C.4-B), or their equivalent ISO tests. The applicability of test methods based on measurement of dissolved organic carbon needs to be appropriately justified as these methods could give results on the removal and not on the biodegradability. Pre-adaptation is not to be used in tests for aerobic ready biodegradability. The 10 days window principle shall not apply.

## (b) Anaerobic biodegradability

Surfactants that are not biodegradable under anaerobic conditions may be used in the product provided that the surfactants are not classified with H400/R50 (Very toxic to aquatic life) within the limit specified below.

The total weight of such anaerobically non-biodegradable surfactants must not exceed 0,20 gram of the recommended dose expressed for 1 litre of dishwashing water.

<sup>(1)</sup> OJ L 104, 8.4.2004, p. 1.

<sup>(2)</sup> OJ L 142, 31.5.2008, p. 1.

*Assessment and verification:* the exact formulation of the product as well as a description of the function of each substance shall be provided to the competent body. The DID list part A (Appendix I) indicates whether a specific surfactant is anaerobically biodegradable or not (the surfactants with an entry of 'Y' in the column on anaerobic biodegradability are biodegradable under anaerobic conditions). For surfactants which are not included in the DID list (OJ L 115, 4.5.2005, p. 18 part A), the relevant information from literature or other sources, or appropriate test results, showing that they are anaerobically biodegradable shall be provided. The reference test for anaerobic degradability shall be OECD 311, ISO 11734, ECETOC No 28 (June 1988) or an equivalent test method, with the requirement of a minimum of 60 % ultimate degradability under anaerobic conditions. Test methods simulating the conditions in a relevant anaerobic environment may also be used to document that 60 % ultimate degradability has been attained under anaerobic conditions (see Appendix II).

### Criterion 3 — Excluded or limited substances and mixtures

The requirements stated in (a), (b) and (c) below shall apply to each substance or mixture, including biocides, colouring agents and fragrances, that exceeds 0,010 % by weight of the final product. This includes also each substance of any mixture used in the formulation that exceeds 0,010 % by weight of the final product. Nanofoms intentionally added to the product shall prove compliance with the criterion 3(c) for any concentration.

#### (a) Specified excluded substances

The following substances shall not be included in the product, either as part of the formulation or as part of any mixture included in the formulation:

- Alkyl phenol ethoxylates (APEOs) and derivatives thereof
- EDTA (ethylene-diamine-tetra-acetic acid) and its salts
- 5-Bromo-5-nitro-1,3-dioxane
- 2-Bromo-2-nitropropane-1,3-diol
- Diazolidinidylurea
- Formaldehyde
- Sodium hydroxy methyl glycinate
- Nitro-musks and polycyclic musks, including for example:

Musk xylene: 5-Tert-butyl-2,4,6-trinitro-m-xylene

Musk ambrette: 4-Tert-butyl-3-methoxy-2,6-dinitrotoluene

Muskene: 1,1,3,3,5-Pentamethyl-4,6-dinitroindan

Musk tibetine: 1-Tert-butyl-3,4,5-trimethyl-2,6-dinitrobenzene

Musk ketone: 4'-Tert-butyl-2',6'-dimethyl-3',5'-dinitroacetaphenone

HHCB (1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8-hexamethylcyclopenta(g)-2-benzopyran)

AHTN (6-Acetyl-1,1,2,4,4,7-hexamethyltetralin).

*Assessment and verification:* the applicant shall provide a declaration supported by declarations from manufacturers, as appropriate, confirming that the listed substances have not been included in the product.

#### (b) Quaternary ammonium salts that are not readily biodegradable shall not be used, either as part of the formulation or as part of any mixture included in the formulation.

*Assessment and verification:* the applicant shall provide documentation showing the biodegradability of any quaternary ammonium salt used.

## (c) Hazardous substances and mixtures

According to the Article 6(6) of Regulation (EC) No 66/2010 on the EU Ecolabel, the product or any part of it shall not contain substances (in any forms, including nanoforms) meeting the criteria for classification with the hazard statements or risk phrases specified below in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council <sup>(1)</sup> or Council Directive 67/548/EEC <sup>(2)</sup>, nor shall it contain substances referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(3)</sup>. The risk phrases below generally refer to substances. However, for mixtures of enzymes and fragrances, where information on substances cannot be obtained, the classification rules for mixtures shall be applied.

List of hazard statements and risk phrases:

| Hazard Statement <sup>(1)</sup>  | Risk Phrase <sup>(2)</sup> |
|--|----------------------------|
| H300 Fatal if swallowed  | R28                        |
| H301 Toxic if swallowed  | R25                        |
| H304 May be fatal if swallowed and enters airways                              | R65                        |
| H310 Fatal in contact with skin  | R27                        |
| H311 Toxic in contact with skin  | R24                        |
| H330 Fatal if inhaled  | R23; R26                   |
| H331 Toxic if inhaled  | R23                        |
| H340 May cause genetic defects   | R46                        |
| H341 Suspected of causing genetic defects                                      | R68                        |
| H350 May cause cancer  | R45                        |
| H350i May cause cancer by inhalation   | R49                        |
| H351 Suspected of causing cancer   | R40                        |
| H360F May damage fertility   | R60                        |
| H360D May damage the unborn child  | R61                        |
| H360FD May damage fertility. May damage the unborn child                       | R60-61                     |
| H360Fd May damage fertility. Suspected of damaging the unborn child            | R60-63                     |
| H360Df May damage the unborn child. Suspected of damaging fertility            | R61-62                     |
| H361f Suspected of damaging fertility  | R62                        |
| H361d Suspected of damaging the unborn child                                   | R63                        |
| H361fd Suspected of damaging fertility. Suspected of damaging the unborn child | R62-63                     |
| H362 May cause harm to breast fed children                                     | R64                        |

<sup>(1)</sup> OJ L 353, 31.12.2008, p. 1.

<sup>(2)</sup> OJ 196, 16.8.1967, p. 1.

<sup>(3)</sup> OJ L 396, 30.12.2006, p. 1.

| Hazard Statement <sup>(1)</sup>   | Risk Phrase <sup>(2)</sup>                        |
|---|---|
| H370 Causes damage to organs  | R39/23; R39/24; R39/25; R39/26;<br>R39/27; R39/28 |
| H371 May cause damage to organs   | R68/20; R68/21; R68/22                            |
| H372 Causes damage to organs through prolonged or repeated exposure             | R48/25; R48/24; R48/23                            |
| H373 May cause damage to organs through prolonged or repeated exposure          | R48/20; R48/21; R48/22                            |
| H400 Very toxic to aquatic life   | R50   |
| H410 Very toxic to aquatic life with long-lasting effects                       | R50-53  |
| H411 Toxic to aquatic life with long-lasting effects                            | R51-53  |
| H412 Harmful to aquatic life with long-lasting effects                          | R52-53  |
| H413 May cause long-lasting harmful effects to aquatic life                     | R53   |
| EUH059 Hazardous to the ozone layer   | R59   |
| EUH029 Contact with water liberates toxic gas                                   | R29   |
| EUH031 Contact with acids liberates toxic gas                                   | R31   |
| EUH032 Contact with acids liberates very toxic gas                              | R32   |
| EUH070 Toxic by eye contact   | R39-41  |
| Sensitising substances  |   |
| H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled | R42   |
| H317: May cause allergic skin reaction  | R43   |

<sup>(1)</sup> As provided for in Regulation (EC) No 1272/2008.

<sup>(2)</sup> As provided for in Directive 67/548/EEC.

Substances or mixtures which change their properties upon processing (e.g. become no longer bioavailable, undergo chemical modification) so that the identified hazard no longer applies are exempted from the above requirement.

Derogations: the following substances or mixtures are specifically exempted from this requirement:

|  |   |        |
|--|---|--------|
| Surfactants<br>In concentrations < 25 % in the product (*) | H400 Very toxic to aquatic life   | R 50   |
| Fragrances   | H412 Harmful to aquatic life with long-lasting effects                          | R52-53 |
| Enzymes (**)   | H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled | R42    |
| Enzymes (**)   | H317: May cause allergic skin reaction  | R43    |
| NTA as an impurity in MGDA and GLDA (***)                  | H351 Suspected of causing cancer  | R40    |

(\*) The percentage must be divided by the M-factor established in accordance with the Regulation (EC) No 1272/2008.

(\*\*) Including stabilisers and other auxiliary substances in the preparations.

(\*\*\*) In concentrations lower than 1,0 % in the raw material as long as the total concentration in the final product is lower than 0,10 %.

*Assessment and verification:* the applicant shall provide the exact formulation of the product to the competent body. The applicant shall demonstrate compliance with this criterion for substances in the product on the basis of information consisting as a minimum of that specified in Annex VII to the Regulation (EC) No 1907/2006. Such information shall be specific to the particular form of the substance, including nanoforms, used in the product. For that purpose, the applicant shall provide a declaration of compliance with this criterion, together with a list of ingredients and related safety data sheets in accordance with Annex II to Regulation (EC) No 1907/2006 for the product as well as for all substances listed in the formulation(s). Concentration limits shall be specified in the safety data sheets in accordance with Article 31 of Regulation (EC) No 1907/2006.

(d) Substances listed in accordance with Article 59(1) of Regulation (EC) No 1907/2006

No derogation from the exclusion in Article 6(6) of Regulation (EC) No 66/2010 may be given concerning substances identified as substances of very high concern and included in the list foreseen in Article 59 of Regulation (EC) No 1907/2006 present in mixtures in concentrations higher than 0,010 %.

*Assessment and verification:* the list of substances identified as substances of very high concern and included in the candidate list in accordance with Article 59 of Regulation (EC) No 1907/2006 can be found here:

[http://echa.europa.eu/chem\\_data/authorisation\\_process/candidate\\_list\\_table\\_en.asp](http://echa.europa.eu/chem_data/authorisation_process/candidate_list_table_en.asp)

Reference to the list shall be made on the date of application.

Concentration limits shall be specified in the safety data sheets in accordance with Article 31 of Regulation (EC) No 1907/2006.

(e) Biocides

- (i) The product may only include biocides in order to preserve the product, and in the appropriate dosage for this purpose alone. This does not refer to surfactants, which may also have biocidal properties.

*Assessment and verification:* the applicant shall provide copies of the material safety data sheets of any preservatives added, together with information on their exact concentration in the product. The manufacturer or supplier of the preservatives shall provide information on the dosage necessary to preserve the product.

- (ii) It is prohibited to claim or suggest on the packaging or by any other communication that the product has an antimicrobial action.

*Assessment and verification:* the applicant shall provide the texts and layouts used on each type of packaging and/or an example of each different type of packaging to the competent body.

- (iii) Biocides, either as part of the formulation or as part of any mixture included in the formulation, that are used to preserve the product and that are classified H410/R50-53 or H411/R51-53 in accordance with Directive 67/548/EEC, Directive 1999/45/EC of the European Parliament and of the Council<sup>(1)</sup> or Regulation (EC) No 1272/2008, are permitted but only if their bioaccumulation potentials are characterised by log Pow (log octanol/water partition coefficient) < 3,0 or an experimentally determined bioconcentration factor (BCF) ≤ 100.

*Assessment and verification:* the applicant shall provide copies of the material safety data sheets for all biocides, together with a documentation of the concentrations of the biocides in the final product.

#### Criterion 4 — Fragrances

- (a) The product shall not contain perfumes containing nitro-musks or polycyclic musks (as specified in criterion 3(a)).

- (b) Any substances added to the product as a fragrance must have been manufactured and/or handled in accordance with the code of practice of the International Fragrance Association. The code can be found on IFRA website: <http://www.ifraorg.org>

- (c) Fragrance substances subject to the declaration requirement provided for in Regulation (EC) No 648/2004 on detergents (Annex VII) and which are not already excluded by criterion 3(c) and (other) fragrance substances classified H317/R43 (May cause allergic skin reaction) and/or H334/R42 (May cause allergy or asthma symptoms or breathing difficulties if inhaled) shall not be present in quantities ≥ 0,010 % (≥ 100 ppm) per substance.

- (d) Fragrances shall not be used in hand dishwashing detergents for professional use.

<sup>(1)</sup> OJ L 200, 30.7.1999, p. 1.

*Assessment and verification:* a declaration of compliance with each part of criterion (a), (b) and (d). For criterion (c), the applicant shall provide a signed declaration of compliance indicating the amount of fragrances in the product. The applicant shall also provide a declaration from the fragrance manufacturer specifying the content of each of the substances in the fragrances which are listed in Annex III, Part I to Council Directive 76/768/EEC <sup>(1)</sup> as well as the content of (other) substances which have been assigned the risk phrases R43/H317 and/or R42/H334.

#### Criterion 5 — Corrosive properties

The product shall not be classified as a 'Corrosive' (C) mixture with R34 or R35 in accordance with Directive 1999/45/EC, or as a 'Skin Category 1' mixture in accordance with Regulation (EC) No 1272/2008.

*Assessment and verification:* the applicant shall provide the exact concentrations of all substances used in the product, either as part of the formulation or as part of any mixture included in the formulation, that are classified as 'Corrosive' (C) with R34 or R35 in accordance with Directive 1999/45/EC, or as a 'Skin Category 1' mixture in accordance with Regulation (EC) No 1272/2008 to the competent body, together with copies of the material safety data sheets.

#### Criterion 6 — Packaging requirements

- (a) Plastics that are used for the main container shall be marked in accordance with the European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste <sup>(2)</sup>, or DIN 6120 part 1 and 2 in connection with DIN 7728 part 1.
- (b) If the primary packaging is made of recycled material, any indication of this on the packaging shall be in conformity with the ISO 14021 standard 'Environmental labels and declarations — Self declared claims (type II environmental labelling)'.
- (c) Only phthalates that at the time of application have been risk assessed and have not been classified according to criterion 3(c) may be used in the plastic packaging.
- (d) The weight utility ratio (WUR) of the primary packaging must not exceed the following values:

| Product type   | WUR  |
|--|--|
| Hand dishwashing detergents that are diluted in water prior to use | 1,20 gram packaging per litre use solution (dishwashing water) |

WUR is calculated only for the primary packaging (including caps, stoppers and hand pumps/spraying devices) by using the formula below:

$$WUR = \Sigma((W_i + U_i)/(D_i * r_i)),$$

where

$W_i$  = The weight (g) of the primary packaging (i) including label if applicable.

$U_i$  = The weight (g) of non-recycled (virgin) material in the primary packaging (i). If the proportion of recycled material in the primary packaging is 0 %, then  $U_i = W_i$ .

$D_i$  = The number of functional doses (= number of the dosage volume which is recommended by the manufacturer for 1 litre of washing water) contained in the primary packaging (i).

$r_i$  = Recycling figure, i.e. the number of times the primary packaging (i) is used for the same purpose through a return or refill system ( $r_i = 1$ , if the packaging is not re-used for the same purpose. If the packaging is re-used,  $r_i$  is set to 1 unless the applicant can document a higher number).

*Assessment and verification:* the applicant shall provide a calculation of the WUR of the product to the competent body, together with a declaration of compliance with each part of this criterion. For criterion (c) the applicant shall provide completed and signed declaration of compliance.

#### Criterion 7 — Fitness for use

The product shall be fit for use, meeting the needs of the consumers.

The cleaning ability and cleaning capacity must be equivalent to or better than that of the generic reference detergent specified below.

<sup>(1)</sup> OJ L 262, 27.9.1976, p. 169.

<sup>(2)</sup> OJ L 365, 31.12.1994, p. 10.

*Assessment and verification:* the cleaning ability and cleaning capacity must be tested by means of an adequate and justifiable laboratory performance test carried out and reported within specified parameters as stated in the framework described in 'Framework for testing the performance of hand dishwashing detergents' that can be found here:

[http://ec.europa.eu/environment/ecolabel/ecolabelled\\_products/categories/hand\\_dishwashing\\_detergents\\_en.htm](http://ec.europa.eu/environment/ecolabel/ecolabelled_products/categories/hand_dishwashing_detergents_en.htm)

The generic reference detergent shall be the one prescribed in IKW performance test 'Recommendation for the quality assessment of the cleaning performance of hand dishwashing detergents' (SÖFW-Journal, 128, 5, pp. 11-15, 2002) with the adaptation that the dosage applied in the performance test is set at 2,5 millilitres of the reference detergent per 5 litres of water.

The IKW performance test 'Recommendation for the quality assessment of the cleaning performance of hand dishwashing detergents' (SÖFW-Journal, 128, 5, pp. 11-15, 2002) method may be applied with the mentioned adaptation and can be downloaded from: [http://www.ikw.org/pdf/broschueren/EQ\\_Handgeschirr\\_e.pdf](http://www.ikw.org/pdf/broschueren/EQ_Handgeschirr_e.pdf)

#### **Criterion 8 — User instructions**

The product shall bear the following information on the packaging:

- (a) 'Do not use running water but immerse the dishes, and use the recommended dosage' (or equivalent text);
- (b) information on the recommended dosage shall appear on the packaging in a reasonably sufficient size and against a visible background. The information shall be provided in millilitres (and tea spoons) of product for 5 litres of dishwashing water suitable for 'dirty' and 'less dirty' dishes;
- (c) an indication of the approximate number of washes that the consumer can perform with one bottle is recommended but voluntary.

This is calculated by dividing the volume of the product by the dosage required for 5 litres of dishwashing water for dirty dishes.

*Assessment and verification:* the applicant shall provide a sample of the product packaging, including the label to the competent body, together with a declaration of compliance with each part of this criterion.

#### **Criterion 9 — Information appearing on the EU Ecolabel**

Optional label with text box shall contain the following text:

- reduced impact on aquatic life,
- reduced use of hazardous substances,
- reduced packaging waste,
- clear user instructions.'

The guidelines for the use of the optional label with text box can be found in the 'Guidelines for the use of the EU Ecolabel logo' on the website: [http://ec.europa.eu/environment/ecolabel/promo/logos\\_en.htm](http://ec.europa.eu/environment/ecolabel/promo/logos_en.htm)

*Assessment and verification:* the applicant shall provide a sample of the label, together with a declaration of compliance with this criterion.

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## Appendix I

**Detergents Ingredients Database (DID) list**

The DID list (part A) is a list containing information of the aquatic toxicity and biodegradability of ingredients typically used in detergent formulations. The list includes information on the toxicity and biodegradability of a range of substances used in washing and cleaning products. The list is not comprehensive, but guidance is given in part B of the DID list concerning the determination of the relevant calculation parameters for substances not present on the DID list (e.g. the Toxicity Factor (TF) and degradation factor (DF), which are used for calculation of the critical dilution volume). The list is a generic source of information and substances present on the DID list are not automatically approved for use in EU Ecolabelled products. The DID list (part A and B) can be found on the EU Ecolabel website: [http://ec.europa.eu/environment/ecolabel/ecolabelled\\_products/categories/did\\_list\\_en.htm](http://ec.europa.eu/environment/ecolabel/ecolabelled_products/categories/did_list_en.htm)

For substances with no data regarding aquatic toxicity and degradability, structure analogies with similar substances may be used to assess the TF and DF. Such structure analogies shall be approved by the competent body granting the EU Ecolabel license. Alternatively, a worst case approach shall be applied, using the parameters below:

Worst case approach:

| Ingredient | Acute toxicity                     |                       |                       | Chronic toxicity |                             |                         | Degradation |         |           |
|------------|------------------------------------|-----------------------|-----------------------|------------------|-----------------------------|-------------------------|-------------|---------|-----------|
|            | LC <sub>50</sub> /EC <sub>50</sub> | SF <sub>(acute)</sub> | TF <sub>(acute)</sub> | NOEC (*)         | SF <sub>(chronic)</sub> (*) | TF <sub>(chronic)</sub> | DF          | Aerobic | Anaerobic |
| 'Name'     | 1 mg/l                             | 10 000                | 0,0001                |                  |                             | 0,0001                  | 1           | P       | N         |

(\*) If no acceptable chronic toxicity data are found, these columns are empty. In that case TF(chronic) is defined as equal to TF(acute).

**Documentation of ready biodegradability**

The following test methods for ready biodegradability shall be used:

- (1) until 1 December 2010 and during transition period from 1 December 2010 to 1 December 2015:

The test methods for ready biodegradability provided for in Directive 67/548/EEC, in particular the methods detailed in Annex V.C4 to that Directive, or their equivalent OECD 301 A-F test methods, or their equivalent ISO tests.

The 10 days window principle shall not apply for surfactants. The pass levels shall be 70 % for the tests referred to in Regulation (EC) No 440/2008 method C.4-A Annex C.4-B (and their equivalent OECD 301 A and E tests and ISO equivalents), and shall be 60 % for methods C4-C, D, E and F (and their equivalent OECD 301 B, C, D and F tests and ISO equivalents);

- (2) after 1 December 2015 and during transition period from 1 December 2010 to 1 December 2015:

The test methods provided for in Regulation (EC) No 1272/2008.

**Documentation of anaerobic biodegradability**

The reference test for anaerobic degradability shall be EN ISO 11734, ECETOC No 28 (June 1988), OECD 311 or an equivalent test method, with the requirement of 60 % ultimate degradability under anaerobic conditions. Test methods simulating the conditions in a relevant anaerobic environment may also be used to document that 60 % ultimate degradability has been attained under anaerobic conditions.

*Extrapolation for substances not listed in the DID list*

Where the ingredients that are not listed in the DID list the following approach may be used to provide the necessary documentation of anaerobic biodegradability:

- (1) apply reasonable extrapolation. Use test results obtained with one raw material to extrapolate the ultimate anaerobic degradability of structurally related surfactants. Where anaerobic biodegradability has been confirmed for a surfactant (or a group of homologues) in accordance with the DID list, it can be assumed that a similar type of surfactant is also anaerobically biodegradable (e.g., C12-15 A 1-3 EO sulphate (DID No 8) is anaerobically biodegradable, and a similar anaerobic biodegradability may also be assumed for C12-15 A 6 EO sulphate). Where anaerobic biodegradability has been confirmed for a surfactant by use of an appropriate test method, it can be assumed that a similar type of

surfactant is also anaerobically biodegradable (e.g. literature data confirming the anaerobic biodegradability of surfactants belonging to the group alkyl ester ammonium salts may be used as documentation for a similar anaerobic biodegradability of other quaternary ammonium salts containing ester-linkages in the alkyl chain(s));

- (2) perform screening test for anaerobic degradability. If new testing is necessary, perform a screening test by use of EN ISO 11734, ECETOC No 28 (June 1988), OECD 311 or an equivalent method;
  - (3) perform low-dosage degradability test. If new testing is necessary, and in the case of experimental problems in the screening test (e.g. inhibition due to toxicity of test substance), repeat testing by using a low dosage of surfactant and monitor degradation by  $^{14}\text{C}$  measurements or chemical analyses. Testing at low dosages may be performed by use of OECD 308 (August 2000) or an equivalent method.
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## COMMISSION DECISION

of 28 June 2011

**on establishing the ecological criteria for the award of the EU Ecolabel to all-purpose cleaners and sanitary cleaners**

(notified under document C(2011) 4442)

(Text with EEA relevance)

(2011/383/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel <sup>(1)</sup>, and in particular Article 8(2) thereof,

After consulting the European Union Eco-labelling Board,

Whereas:

- (1) Under Regulation (EC) No 66/2010, the EU Ecolabel may be awarded to those products with a reduced environmental impact during their entire life cycle.
- (2) Regulation (EC) No 66/2010 provides that specific EU Ecolabel criteria are to be established according to product groups.
- (3) Commission Decision 2005/344/EC <sup>(2)</sup> has established the ecological criteria and the related assessment and verification requirements for all-purpose cleaners and cleaners for sanitary facilities which are valid until 30 June 2011.
- (4) Those criteria have been further reviewed in the light of technological developments. The new criteria, as well as the related assessment and verification requirements, should be valid for 4 years from the date of adoption of this Decision.
- (5) Decision 2005/344/EC should be replaced for reasons of clarity.
- (6) A transitional period should be allowed for producers whose products have been awarded the Ecolabel for all-purpose cleaners and sanitary cleaners on the basis of the

criteria set out in Decision 2005/344/EC, so that they have sufficient time to adapt their products to comply with the revised criteria and requirements. Producers should also be allowed to submit applications based on the criteria set out in Decision 2005/344/EC or on the criteria set out in this Decision until the lapse of validity of that Decision.

- (7) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 16 of Regulation (EC) No 66/2010,

HAS ADOPTED THIS DECISION:

*Article 1*

The product group 'All-purpose cleaners and sanitary cleaners' shall comprise: all-purpose cleaners, window cleaners, and sanitary cleaners.

- (a) All-purpose cleaners comprising detergent products intended for the routine cleaning of floors, walls, ceilings, windows and other fixed surfaces, and which are either diluted in water prior to use or used without dilution. All-purpose cleaners shall mean products intended for indoor use in buildings which include domestic, commercial and industrial facilities.
- (b) Window cleaners comprising specific cleaners intended for the routine cleaning of windows, and which are used without dilution.
- (c) Sanitary cleaners comprising detergent products intended for the routine removal, including by scouring, of dirt and/or deposits in sanitary facilities, such as laundry rooms, toilets, bathrooms, showers and kitchens. This subgroup thus contains bathroom cleaners and kitchen cleaners.

The product group shall cover products for both private and professional use. The products shall be mixtures of chemical substances and must not contain micro-organisms that have been deliberately added by the manufacturer.

<sup>(1)</sup> OJ L 27, 30.1.2010, p. 1.

<sup>(2)</sup> OJ L 115, 4.5.2005, p. 42.

*Article 2*

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

1. 'substance' means a chemical element and its compounds in the natural state or obtained by any production process, including any additive necessary to preserve the stability of the product and any impurity deriving from the process used but excluding any solvent, which may be separated without affecting the stability of the substance or changing its composition;
2. 'product' (or 'mixture') means a mixture or solution of two or more substances, which do not react.

*Article 3*

In order to be awarded the EU Ecolabel under Regulation (EC) No 66/2010, an item of all-purpose cleaner, window cleaner or sanitary cleaner shall fall within the product group 'all-purpose cleaners and sanitary cleaners' as defined in Article 1 of this Decision and shall comply with the criteria as well as the related assessment and verification requirements set out in the Annex to this Decision.

*Article 4*

The criteria for the product group 'all-purpose cleaners and sanitary cleaners', as well as the related assessment and verification requirements, shall be valid for 4 years from the date of adoption of this Decision.

*Article 5*

For administrative purposes the code number assigned to the product group 'all-purpose cleaners and sanitary cleaners' shall be '020'.

*Article 6*

Decision 2005/344/EC is repealed.

*Article 7*

1. By derogation from Article 6, applications for the EU Ecolabel for products falling within the product group 'all-purpose cleaners and sanitary cleaners' submitted before the date of adoption of this Decision shall be evaluated in accordance with the conditions laid down in Decision 2005/344/EC.

2. Applications for the EU Ecolabel for products falling within the product group 'all-purpose cleaners and sanitary cleaners' submitted from the date of adoption of this Decision but by 30 June 2011 at the latest may be based either on the criteria set out in Decision 2005/344/EC or on the criteria set out in this Decision.

Those applications shall be evaluated in accordance with the criteria on which they are based.

3. Where the Ecolabel is awarded on the basis of an application evaluated in accordance with the criteria set out in Decision 2005/344/EC, that Ecolabel may be used for 12 months from the date of adoption of this Decision.

*Article 8*

This Decision is addressed to the Member States.

Done at Brussels, 28 June 2011.

*For the Commission*

Janez POTOČNIK

*Member of the Commission*

## ANNEX

**FRAMEWORK****The aims of the criteria**

The criteria aim, in particular, at promoting products that have a reduced environmental impact by limiting the quantity of harmful substances, by reducing the quantity of detergent used and by reducing packaging waste. The criteria furthermore aim at reducing or preventing of risks for the environment and for human health related to the use of hazardous substances, minimising packaging waste, providing information that will enable the consumer to use the product in the way that is efficient and minimising environmental impact.

**CRITERIA**

1. Toxicity to aquatic organisms
2. Biodegradability of surfactants
3. Excluded or limited substances and mixtures
4. Fragrances
5. Volatile organic compounds
6. Phosphorus
7. Packaging requirements
8. Fitness for use
9. User instructions
10. Information appearing on the EU Ecolabel
11. Professional training

**Assessment and verification requirements****(a) Requirements**

The specific assessment and verification requirements are indicated within each criterion.

Where the applicant is required to provide declarations, documentation, analyses test reports, or other evidence to show compliance with the criteria, it is understood that these may originate from the applicant and/or his supplier(s) and/or their supplier(s) etc., as appropriate.

Where possible, the testing should be performed by laboratories that meet the general requirements of EN ISO 17025 or equivalent.

Where appropriate, test methods other than those indicated for each criterion may be used if the competent body assessing the application accepts their equivalence.

Appendix I makes reference to the Detergents Ingredients Database (DID) list which contains the most widely used ingredients used in detergent formulations. It shall be used for deriving the data for the calculations of the Critical Dilution Volume (CDV) and for the assessment of the biodegradability of the ingredients. For substances not present on the DID list, guidance is given on how to calculate or extrapolate the relevant data. The latest version of the DID list is available from the EU Ecolabel website or via the websites of the individual competent bodies.

Where appropriate, competent bodies may require supporting documentation and may carry out independent verifications.

**(b) Measurement thresholds**

All substances in the product, including additives (e.g. preservatives or stabilisers) in the ingredients, of which the concentration exceeds 0,010 % by weight of the final formulation shall comply with the EU Ecolabel criteria, except for Criterion 1, where each intentionally added substance should be included, irrespective of its weight. Impurities resulting from the production of the ingredients which are present in concentrations > 0,010 % by weight of the final formulation shall also comply with the criteria.

## (c) Reference dosage

For all-purpose cleaners which are diluted in water prior to use the dosage in grams of the product recommended by the manufacturer for preparing 1 litre of washing water for cleaning of normally soiled surfaces is taken as the reference dosage for the calculations aiming at documenting compliance with the EU Ecolabel criteria and for testing of cleaning ability.

**EU ECOLABEL CRITERIA****Criterion 1 — Toxicity to aquatic organisms**

The critical dilution volume ( $CDV_{\text{chronic}}$ ) is calculated for each substance (i) using the following equation:

$$CDV_{\text{chronic}} = \sum CDV_{(i)} = \sum \frac{\text{weight}_{(i)} \times DF_{(i)}}{TF_{\text{chronic}(i)}} \times 1\,000$$

where  $\text{weight}_{(i)}$  is the weight of the substance (in grams) contained in the dosage recommended by the manufacturer for 1 litre of washing water (for all-purpose cleaners which are diluted in water prior to use) or per 100 grams of product (all-purpose cleaners, window cleaners and sanitary cleaners which are used without dilution).  $DF_{(i)}$  is the degradation factor and  $TF_{\text{chronic}(i)}$  is the toxicity factor of the substance (in milligrams/litre).

The values of DF and  $TF_{\text{chronic}}$  shall be as given in the detergent ingredient database list-Part A (DID list-Part A) (Appendix I). If the substance in question is not included in the DID list-Part A, the applicant shall estimate the values following the approach described in the DID list-Part B (Appendix I). The  $CDV_{\text{chronic}}$  is summed for each substance, making the  $CDV_{\text{chronic}}$  for the product.

For all-purpose cleaners *which are diluted in water prior to use*, the  $CDV_{\text{chronic}}$  shall be calculated on the basis of the dosage in grams of the product recommended by the manufacturer for preparing 1 litre of washing water for cleaning of normally soiled surfaces. The  $CDV_{\text{chronic}}$  of the recommended dose expressed for 1 litre of washing water shall not exceed 18 000 litres.

For all-purpose cleaners *which are used without dilution*, the  $CDV_{\text{chronic}}$  for 100 g of the product shall not exceed 52 000 litres.

For window cleaners, the  $CDV_{\text{chronic}}$  for 100 g of the product shall not exceed 4 800 litres.

For sanitary cleaners, the  $CDV_{\text{chronic}}$  for 100 g of the product shall not exceed 80 000 litres.

*Assessment and verification:* the exact formulation of the product shall be provided to the competent body, together with the details of the  $CDV_{\text{chronic}}$  calculations showing compliance with this Criterion.

**Criterion 2 — Biodegradability of surfactants**

## (a) Ready biodegradability (aerobic)

Each surfactant used in the product shall be readily biodegradable.

*Assessment and verification:* the exact formulation of the product as well as a description of the function of each substance shall be provided to the Competent Body. The DID list-Part A (Appendix I) indicates whether a specific surfactant is aerobically biodegradable or not (the surfactants with an entry of 'R' in the column on aerobic biodegradability are readily biodegradable). For surfactants which are not included in the DID list-Part A, the relevant information from literature or other sources, or appropriate test results, showing that they are aerobically biodegradable shall be provided. The tests for ready biodegradability shall be as referred to in Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents<sup>(1)</sup>. Surfactants shall be considered as readily biodegradable if the level of biodegradability (mineralisation) measured in accordance with one of the five following tests is at least 60 % within 28 days: CO<sub>2</sub> headspace test (OECD 310), carbon dioxide (CO<sub>2</sub>) Evolution Modified Sturm test (OECD 301B; Council Regulation (EC) No 440/2008<sup>(2)</sup> method C.4-C), Closed Bottle test (OECD 301D; Regulation (EC) No 440/2008 method C.4-E), Manometric Respirometry (OECD 301F; Regulation (EC) No 440/2008 method C.4-D), or MITI (I) test (OECD 301C; Regulation (EC) No 440/2008 method C.4-F), or their equivalent ISO tests. Depending on the physical characteristics of the surfactant, one of the following tests might be used to confirm ready biodegradability, if the level of biodegradability is at least 70 % within 28 days: Dissolved Organic Carbon DOC Die-Away (OECD 301A; Regulation (EC) No 440/2008 method C.4-A) or Modified OECD Screening DOC Die-Away (OECD 301E; Regulation (EC) No 440/2008 method C.4-B), or their equivalent ISO tests. The applicability of test methods based on measurement of dissolved organic carbon needs to be appropriately justified as these methods could give results on the removal and not on the biodegradability. Pre-adaptation is not to be used in tests for aerobic ready biodegradability. The 10 days window principle shall not apply.

<sup>(1)</sup> OJ L 104, 8.4.2004, p. 1.

<sup>(2)</sup> OJ L 142, 31.5.2008, p. 1.

(b) Anaerobic biodegradability

Surfactants that are not biodegradable under anaerobic conditions may be used in the product within specified limitations provided that the surfactants are not classified with H400/R50 (Very toxic to aquatic life) within the limit specified below.

For all-purpose cleaners to be diluted with water prior to use, the total weight of anaerobically non-biodegradable surfactants must not exceed 0,40 g of the recommended dose expressed for 1 litre of washing water.

For all-purpose cleaners to be used without dilution, the total weight of anaerobically non-biodegradable surfactants must not exceed 4,0 g per 100 g product.

For sanitary cleaners, the total weight of anaerobically non-biodegradable surfactants must not exceed 2,0 g per 100 g product.

For window cleaners, the total weight of anaerobically non-biodegradable surfactants must not exceed 2,0 g per 100 g product.

*Assessment and verification:* the exact formulation of the product as well as a description of the function of each substance shall be provided to the competent body. The DID list-Part A (Appendix I) indicates whether a specific surfactant is anaerobically biodegradable or not (the surfactants with an entry of 'Y' in the column on anaerobic biodegradability are biodegradable under anaerobic conditions). For surfactants which are not included in the DID list-Part A, the relevant information from literature or other sources, or appropriate test results, showing that they are anaerobically biodegradable shall be provided. The reference test for anaerobic degradability shall be OECD 311, ISO 11734, ECETOC No 28 (June 1988) or an equivalent test method, with the requirement of a minimum of 60 % ultimate degradability under anaerobic conditions. Test methods simulating the conditions in a relevant anaerobic environment may also be used to document that 60 % ultimate degradability has been attained under anaerobic conditions.

**Criterion 3 — Excluded or limited substances and mixtures**

The requirements stated in (a), (b) and (c) below shall apply to each substance, including biocides, colouring agents and fragrances, that exceeds 0,010 % by weight of the final product. This includes also each substance of any mixture used in the formulation that exceeds 0,010 % by weight of the final product. Nanoforms intentionally added to the product shall prove compliance with the Criterion 3(c) for any concentration.

(a) Specified excluded substances

The following substances shall not be included in the product, either as part of the formulation or as part of any mixture included in the formulation:

- Alkyl phenol ethoxylates (APEOs) and derivatives thereof
- EDTA (ethylene-diamine-tetra-acetic-acid) and its salts
- 5-Bromo-5-nitro-1,3-dioxane
- 2-Bromo-2-nitropropane-1,3-diol
- Diazolinidylurea
- Formaldehyde
- Sodium hydroxy methyl glycinate
- Nitromusks and polycyclic musks, including for example:
  - Musk xylene: 5-Tert-butyl-2,4,6-trinitro-m-xylene,
  - Musk ambrette: 4-Tert-butyl-3-methoxy-2,6-dinitrotoluene,
  - Moskene: 1,1,3,3,5-Pentamethyl-4,6-dinitroindan,
  - Musk tibetine: 1-Tert-butyl-3,4,5-trimethyl-2,6-dinitrobenzene,
  - Musk ketone: 4'-Tert-butyl-2',6'-dimethyl-3',5'-dinitroacetaphenone,
  - HHCb (1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8-hexamethylcyclopenta(g)-2-benzopyran),
  - AHTN (6-Acetyl-1,1,2,4,4,7-hexamethyltetralin).

*Assessment and verification:* the applicant shall provide a declaration supported by declarations from manufacturers of substances, as appropriate, confirming that the listed substances have not been included in the product.

## (b) Quaternary ammonium salts

Quaternary ammonium salts that are not readily biodegradable shall not be used, either as part of the formulation or as part of any mixture included in the formulation.

*Assessment and verification:* the applicant shall provide documentation showing the biodegradability of any quaternary ammonium salt used.

## (c) Hazardous substances and mixtures

According to the Article 6(6) of Regulation (EC) No 66/2010, the product or any part of it shall not contain substances (in any forms, including nanoforms) meeting criteria for classification with the hazard statements or risk phrases specified below in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council <sup>(1)</sup> or Council Directive 67/548/EEC <sup>(2)</sup> nor shall it contain substances referred to in Article 57 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council <sup>(3)</sup>. The risk phrases below generally refer to substances. However, for mixtures of enzymes and fragrances, where information on substances cannot be obtained, the classification rules for mixtures shall be applied.

List of hazard statements and risk phrases:

| Hazard Statement <sup>(1)</sup>   | Risk Phrase <sup>(2)</sup>                        |
|---|---|
| H300 Fatal if swallowed   | R28   |
| H301 Toxic if swallowed   | R25   |
| H304 May be fatal if swallowed and enters airways                               | R65   |
| H310 Fatal in contact with skin   | R27   |
| H311 Toxic in contact with skin   | R24   |
| H330 Fatal if inhaled   | R23; R26  |
| H331 Toxic if inhaled   | R23   |
| H340 May cause genetic defects  | R46   |
| H341 Suspected of causing genetic defects                                       | R68   |
| H350 May cause cancer   | R45   |
| H350i May cause cancer by inhalation  | R49   |
| H351 Suspected of causing cancer  | R40   |
| H360F May damage fertility  | R60   |
| H360D May damage the unborn child   | R61   |
| H360FD May damage fertility. May damage the unborn child                        | R60-61  |
| H360Fd May damage fertility. Suspected of damaging the unborn child             | R60-63  |
| H360Df May damage the unborn child. Suspected of damaging fertility             | R61-62  |
| H361f Suspected of damaging fertility   | R62   |
| H361d Suspected of damaging the unborn child                                    | R63   |
| H361fd Suspected of damaging fertility. Suspected of damaging the unborn child. | R62-63  |
| H362 May cause harm to breast-fed children                                      | R64   |
| H370 Causes damage to organs  | R39/23; R39/24; R39/25;<br>R39/26; R39/27; R39/28 |
| H371 May cause damage to organs   | R68/20; R68/21; R68/22                            |
| H372 Causes damage to organs through prolonged or repeated exposure             | R48/25; R48/24; R48/23                            |

<sup>(1)</sup> OJ L 353, 31.12.2008, p. 1.

<sup>(2)</sup> OJ 196, 16.8.1967, p. 1.

<sup>(3)</sup> OJ L 396, 30.12.2006, p. 1.

| Hazard Statement <sup>(1)</sup>   | Risk Phrase <sup>(2)</sup> |
|---|----------------------------|
| H373 May cause damage to organs through prolonged or repeated exposure          | R48/20; R48/21; R48/22     |
| H400 Very toxic to aquatic life   | R50                        |
| H410 Very toxic to aquatic life with long-lasting effects                       | R50-53                     |
| H411 Toxic to aquatic life with long-lasting effects                            | R51-53                     |
| H412 Harmful to aquatic life with long-lasting effects                          | R52-53                     |
| H413 May cause long-lasting harmful effects to aquatic life                     | R53                        |
| EUH059 Hazardous to the ozone layer   | R59                        |
| EUH029 Contact with water liberates toxic gas                                   | R29                        |
| EUH031 Contact with acids liberates toxic gas                                   | R31                        |
| EUH032 Contact with acids liberates very toxic gas                              | R32                        |
| EUH070 Toxic by eye contact   | R39-41                     |
| Sensitising substances  |                            |
| H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled | R42                        |
| H317: May cause allergic skin reaction  | R43                        |

(<sup>1</sup>) As provided for in Regulation (EC) No 1272/2008.  
(<sup>2</sup>) As provided for in Directive 67/548/EEC.

Substances or mixtures which change their properties upon processing (e.g. become no longer bioavailable, undergo chemical modification) so that the identified hazard no longer applies are exempted from the above requirement.

Derogations: the following substances or mixtures are specifically exempted from this requirement:

|  |   |        |
|--|---|--------|
| Surfactants<br>In concentrations < 25 % in the product (*) | H400 Very toxic to aquatic life   | R50    |
| Fragrances   | H412 Harmful to aquatic life with long-lasting effects                          | R52-53 |
| Enzymes (**)   | H334: May cause allergy or asthma symptoms or breathing difficulties if inhaled | R42    |
| Enzymes (**)   | H317: May cause allergic skin reaction  | R43    |
| NTA as an impurity in MGDA and GLDA (***)                  | H351 Suspected of causing cancer  | R40    |

(\*) The percentage must be divided by the M-factor established in accordance with the Regulation (EC) No 1272/2008.

(\*\*) Including stabilisers and other auxiliary substances in the preparations.

(\*\*\*) In concentrations lower than 1,0 % in the raw material as long as the total concentration in the final product is lower than 0,10 %.

*Assessment and verification:* the applicant shall provide the exact formulation of the product to the competent body. The applicant shall demonstrate compliance with this Criterion for substances in the product on the basis of information consisting as a minimum of that specified in Annex VII to the Regulation (EC) No 1907/2006. Such information shall be specific to the particular form of the substance, including nanoforms, used in the product. For that purpose, the applicant shall provide a declaration of compliance with this Criterion, together with a list of ingredients and related Safety Data Sheets in accordance with Annex II to Regulation (EC) No 1907/2006 for the product as well as for all substances listed in the formulation(s). Concentration limits shall be specified in the Safety Data Sheets in accordance with Article 31 of Regulation (EC) No 1907/2006.

(d) Substances listed in accordance with Article 59(1) of Regulation (EC) No 1907/2006

No derogation from the exclusion in Article 6(6) of Regulation (EC) No 66/2010 may be given concerning substances identified as substances of very high concern and included in the list foreseen in Article 59 of Regulation (EC) No 1907/2006 present in mixtures in concentrations higher than 0,010 %.

*Assessment and verification:* the list of substances identified as substances of very high concern and included in the candidate list in accordance with Article 59 of Regulation (EC) No 1907/2006 can be found here:

[http://echa.europa.eu/chem\\_data/authorisation\\_process/candidate\\_list\\_table\\_en.asp](http://echa.europa.eu/chem_data/authorisation_process/candidate_list_table_en.asp)

Reference to the list shall be made on the date of application.

Concentration limits shall be specified in the safety data sheets in accordance with Article 31 of Regulation (EC) No 1907/2006.

(e) Biocides

- (i) The product may only include biocides in order to preserve the product, and in the appropriate dosage for this purpose alone. This does not refer to surfactants, which may also have biocidal properties.

*Assessment and verification:* the applicant shall provide copies of the material safety data sheets of any preservatives added, together with information on their exact concentration in the product. The manufacturer or supplier of the preservatives shall provide information on the dosage necessary to preserve the product.

- (ii) It is prohibited to claim or suggest on the packaging or by any other communication that the product has an antimicrobial action.

*Assessment and verification:* the applicant shall provide the texts and layouts used on each type of packaging and/or an example of each different type of packaging to the competent body.

- (iii) Biocides, either as part of the formulation or as part of any mixture included in the formulation, that are used to preserve the product and that are classified H410/R50-53 or H411/R51-53 in accordance with Directive 67/548/EEC, Directive 1999/45/EC of the European Parliament and of the Council<sup>(1)</sup> or Regulation (EC) No 1272/2008, are permitted but only if their bioaccumulation potentials are characterised by log Pow (log octanol/water partition coefficient) < 3,0 or an experimentally determined bioconcentration factor (BCF) ≤ 100.

*Assessment and verification:* the applicant shall provide copies of the material safety data sheets for all biocides, together with a documentation of the concentrations of the biocides in the final product.

**Criterion 4 — Fragrances**

- (a) The product shall not contain perfumes containing nitro-musks or polycyclic musks (as specified in Criterion 3(a)).
- (b) Any substance added to the product as a fragrance must have been manufactured and/or handled in accordance with the code of practice of the International Fragrance Association. The code can be found on IFRA website: <http://www.ifraorg.org>
- (c) Fragrance substances subject to the declaration requirement provided for in Regulation (EC) No 648/2004 (Annex VII) and which are not already excluded by Criterion 3(c) and (other) fragrance substances classified H317/R43 (May cause allergic skin reaction) and/or H334/R42 (May cause allergy or asthma symptoms or breathing difficulties if inhaled) shall not be present in quantities ≥ 0,010 % (≥ 100 ppm) per substance.

*Assessment and verification:* the applicant shall provide a declaration of compliance with each part of Criteria (a) and (b). For Criterion (c), the applicant shall provide a signed declaration of compliance indicating the amount of fragrances in the product. The applicant shall also provide a declaration from the fragrance manufacturer specifying the content of each of the substances in the fragrances which are listed in Annex III, Part I to Council Directive 76/768/EEC<sup>(2)</sup> as well as the content of (other) substances which have been assigned the risk phrases R43/H317 and/or R42/H334.

**Criterion 5 — Volatile organic compounds**

The final products of all-purpose cleaners and sanitary cleaners (as sold) shall not contain more than 6 % (by weight) of volatile organic compounds with a boiling point lower than 150 °C. Alternatively, for concentrated products to be diluted in water, the total concentration of volatile organic compounds with a boiling point lower than 150 °C shall not exceed 0,2 % (by weight) in the washing water.

The final products of window cleaners (as sold) shall not contain more than 10 % (by weight) of volatile organic compounds with a boiling point lower than 150 °C.

*Assessment and verification:* the applicant shall provide copies of the material safety data sheets of each organic solvent together with details of the calculations of the total concentration of volatile organic compounds with a boiling point lower than 150 °C.

<sup>(1)</sup> OJ L 200, 30.7.1999, p. 1.

<sup>(2)</sup> OJ L 262, 27.9.1976, p. 169.

**Criterion 6 — Phosphorus**

The total quantity of elemental phosphorous in the product shall be calculated on the basis of the dosage of the product recommended by the manufacturer for preparing 1 litre of washing water for cleaning of normally soiled surfaces (for products diluted in water prior to use) or per 100 g of product (for products used without dilution) taking into account all substances containing phosphorus (e.g. phosphates and phosphonates).

For all-purpose cleaners, which are diluted in water prior to use, the total phosphorus content (P) shall not exceed 0,02 g of the dosage of the product recommended by the manufacturer for 1 litre of washing water.

For all-purpose cleaners, which are used without dilution, the total phosphorus content (P) shall not exceed 0,2 g per 100 g of product.

For sanitary cleaners, the total phosphorus content (P) shall not exceed 1,0 g per 100 g of product.

Substances used in window cleaners must not contain phosphorus.

*Assessment and verification:* the applicant shall provide the exact formulation of the product to the competent body, together with the details of the calculations showing compliance with this Criterion.

**Criterion 7 — Packaging requirements**

- (a) Sprays containing propellants must not be used.
- (b) Plastic materials that are used for the main container shall be marked in accordance with the European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste <sup>(1)</sup>, or DIN 6120 Parts 1 and 2 in connection with DIN 7728 Part 1.
- (c) If the primary packaging is made of recycled material, any indication of this on the packaging shall be in conformity with the ISO 14021 standard 'Environmental labels and declarations — Self declared claims (type II environmental labelling)'.  
 (d) Products packaged in trigger sprays must be sold as a part of a refillable system.
- (e) Only phthalates that at the time of application have been risk assessed and have not been classified according to Criterion 3(c) may be used in the plastic packaging.
- (f) The weight utility ratio (WUR) of the primary packaging must not exceed the following values:

| Product type  | WUR  |
|---|--|
| Concentrated products, including liquid concentrates and solids, that are diluted in water prior to use | 1,20 gram packaging per litre use solution (washing water) |
| Ready-to-use products, i.e. products used without further dilution                                      | 150 gram packaging per litre use solution (washing water)  |

WUR is calculated only for the primary packaging (including caps, stoppers and hand pumps/spraying devices) by using the formula below:

$$WUR = \sum((W_i + U_i)/(D_i * r_i)),$$

where

$W_i$  = The weight (g) of the primary packaging (i) including label if applicable.

$U_i$  = The weight (g) of non-recycled (virgin) material in the primary packaging (i). If the proportion of recycled material in the primary packaging is 0 %, then  $U_i = W_i$ .

$D_i$  = The number of functional doses (= number of the dosage volume which is recommended by the manufacturer for 1 litre of washing water) contained in the primary packaging (i). In the case of ready-to-use products that are sold pre-diluted,  $D_i$  = product volume (in litres).

$r_i$  = Recycling figure, i.e. the number of times the primary packaging (i) is used for the same purpose through a return or refill system ( $r_i = 1$ , if the packaging is not reused for the same purpose. If the packaging is reused,  $r_i$  is set to 1 unless the applicant can document a higher number).

<sup>(1)</sup> OJ L 365, 31.12.1994, p. 10.

*Assessment and verification:* the applicant shall provide a calculation of the WUR of the product to the competent body, together with a declaration of compliance with each part of this Criterion. For Criterion (e) the applicant shall provide completed and signed declaration of compliance.

#### **Criterion 8 — Fitness for use**

The product shall be fit for use, meeting the needs of the consumers.

##### (a) All-purpose cleaners and window cleaners

For all-purpose cleaners, only fat-removing effects must be documented. For window cleaners, stripe-less drying must be documented.

The cleaning ability must be equivalent to or better than that of a market-leading or generic reference product, approved by a competent body.

*Assessment and verification:* the performance of the product must either be tested by:

- an adequate and justifiable laboratory test, or
- an adequate and justifiable consumer test.

Both tests must be carried out and reported within specified parameters as stated in the framework described in 'Framework for testing the performance of all-purpose cleaners, window cleaners and sanitary cleaners' that can be found here:

[http://ec.europa.eu/environment/ecolabel/ecolabelled\\_products/categories/purpose\\_cleaners\\_en.htm](http://ec.europa.eu/environment/ecolabel/ecolabelled_products/categories/purpose_cleaners_en.htm)

##### (b) Sanitary cleaners

Sanitary cleaners include bathroom cleaners, toilet cleaners and kitchen cleaners. For bathroom cleaners, both limesoap and limescale removal shall be documented. For acidic toilet cleaners, only limescale removal shall be documented. For kitchen cleaners fat removing effects shall be documented.

The cleaning ability must be equivalent to or better than that of the generic reference detergent specified below.

*Assessment and verification:* the performance of the product must either be tested by:

- an adequate and justifiable laboratory test, or
- an adequate and justifiable consumer test.

Both tests must be carried out and reported within specified parameters as stated in the framework described in 'Framework for testing the performance of all-purpose cleaners, window cleaners and sanitary cleaners'. The generic reference detergent shall be the one prescribed in IKW performance test 'Recommendation for the quality assessment of acidic toilet cleaners' (SÖFW-Journal, 126, 11, pp. 50-56, 2000). The reference detergent is applicable for toilet cleaners and bathroom cleaners; however the pH must be reduced to 3,5 for the testing of bathroom cleaners.

The IKW performance test 'Recommendation for the quality assessment of acidic toilet cleaners' (SÖFW-Journal, 126, 11, pp. 50-56, 2000) can be downloaded from

[http://www.ikw.org/pdf/broschueren/EQ\\_WC\\_Reiniger\\_Englisch.pdf](http://www.ikw.org/pdf/broschueren/EQ_WC_Reiniger_Englisch.pdf)

#### **Criterion 9 — User instructions**

##### (a) Dosage instructions

Information on the recommended dosage of all-purpose cleaners and sanitary cleaners shall appear on the packaging in a reasonably sufficient size and against a visible background. In the case of a concentrated product, it shall be clearly indicated on the packaging that only a small quantity of the product is needed compared to normal (i.e. diluted) products.

The following text (or equivalent text) shall appear on the packaging:

'Proper dosage saves costs and minimises environmental impacts'.

The following text (or equivalent text) shall appear on the packaging of ready-to-use all-purpose cleaners: 'The product is not intended for large-scale cleaning'.

(b) Safety advice

The following safety advice (or equivalent) shall appear on the product in text or as pictogram:

- 'Keep away from children',
- 'Do not mix different cleaners',
- 'Avoid inhaling sprayed product' (only for products that are packaged as sprays).

*Assessment and verification:* the applicant shall provide a sample of the product packaging, including the label to the competent body, together with a declaration of compliance with each part of this Criterion.

**Criterion 10 — Information appearing on the EU Ecolabel**

Optional label with text box shall contain the following text:

- reduced impact on aquatic life,
- reduced use of hazardous substances,
- reduced packaging waste,
- clear user instructions.'

The guidelines for the use of the optional label with text box can be found in the 'Guidelines for the use of the EU Ecolabel logo' on the website:

[http://ec.europa.eu/environment/ecolabel/promo/logos\\_en.htm](http://ec.europa.eu/environment/ecolabel/promo/logos_en.htm)

*Assessment and verification:* the applicant shall provide a sample of the label, together with a declaration of compliance with this Criterion.

**Criterion 11 — Professional training**

For detergents, which are used by professional users, the producer, its distributor or a third party shall offer training or training materials for cleaning staff. These shall include step-by-step instructions for proper dilution, use, disposal and the use of equipment.

*Assessment and verification:* a sample of training material containing step-by-step instructions for proper dilution, use, disposal and the use of equipment and a description of training courses shall be provided to the competent body.

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## Appendix I

**Detergents Ingredients Database (DID) list**

The DID list (Part A) is a list containing information of the aquatic toxicity and biodegradability of ingredients typically used in detergent formulations. The list includes information on the toxicity and biodegradability of a range of substances used in washing and cleaning products. The list is not comprehensive, but guidance is given in Part B of the DID list concerning the determination of the relevant calculation parameters for substances not present on the DID list (e.g. the Toxicity Factor (TF) and degradation factor (DF), which are used for calculation of the critical dilution volume). The list is a generic source of information and substances present on the DID list are not automatically approved for use in EU Ecolabelled products. The DID list (Parts A and B) can be found on the EU Ecolabel website: [http://ec.europa.eu/environment/ecolabel/ecolabelled\\_products/categories/did\\_list\\_en.htm](http://ec.europa.eu/environment/ecolabel/ecolabelled_products/categories/did_list_en.htm)

For substances with no data regarding aquatic toxicity and degradability, structure analogies with similar substances may be used to assess the TF and DF. Such structure analogies shall be approved by the competent body granting the EU Ecolabel license. Alternatively, a worst case approach shall be applied, using the parameters below:

Worst case approach:

| Ingredient | Acute toxicity |                       |                       | Chronic toxicity |                             |                         | Degradation |         |           |
|------------|----------------|-----------------------|-----------------------|------------------|-----------------------------|-------------------------|-------------|---------|-----------|
|            | LC50/EC50      | SF <sub>(acute)</sub> | TF <sub>(acute)</sub> | NOEC (*)         | SF <sub>(chronic)</sub> (*) | TF <sub>(chronic)</sub> | DF          | Aerobic | Anaerobic |
| 'Name'     | 1 mg/l         | 10 000                | 0,0001                |                  |                             | 0,0001                  | 1           | P       | N         |

(\*) If no acceptable chronic toxicity data are found, these columns are empty. In that case TF<sub>(chronic)</sub> is defined as equal to TF<sub>(acute)</sub>.

**Documentation of ready biodegradability**

The following test methods for ready biodegradability shall be used.

(1) Until 1 December 2010 and during transition period from 1 December 2010 to 1 December 2015:

The test methods for ready biodegradability provided for in Directive 67/548/EEC, in particular the methods detailed in Annex V.C4 to that Directive, or their equivalent OECD 301 A-F test methods, or their equivalent ISO tests.

The 10-days window principle shall not apply for surfactants. The pass levels shall be 70 % for the tests referred to in Regulation (EC) No 440/2008 method C.4-A and C4-B (and their equivalent OECD 301 A and E tests and ISO equivalents), and shall be 60 % for methods C4-C, D, E and F (and their equivalent OECD 301 B, C, D and F tests and ISO equivalents).

(2) After 1 December 2015 and during transition period from 1 December 2010 to 1 December 2015:

The test methods provided for in Regulation (EC) No 1272/2008.

**Documentation of anaerobic biodegradability**

The reference test for anaerobic degradability shall be EN ISO 11734, ECETOC No 28 (June 1988), OECD 311 or an equivalent test method, with the requirement of 60 % ultimate degradability under anaerobic conditions. Test methods simulating the conditions in a relevant anaerobic environment may also be used to document that 60 % ultimate degradability has been attained under anaerobic conditions.

*Extrapolation for substances not listed in the DID list*

Where the ingredients that are not listed in the DID list the following approach may be used to provide the necessary documentation of anaerobic biodegradability:

1. *Apply reasonable extrapolation.* Use test results obtained with one raw material to extrapolate the ultimate anaerobic degradability of structurally related surfactants. Where anaerobic biodegradability has been confirmed for a surfactant (or a group of homologues) in accordance with the DID list, it can be assumed that a similar type of surfactant is also anaerobically biodegradable (e.g. C12-15 A 1-3 EO sulphate [DID No 8] is anaerobically biodegradable, and a similar anaerobic biodegradability may also be assumed for C12-15 A 6 EO sulphate). Where anaerobic biodegradability has been confirmed for a surfactant by use of an appropriate test method, it can be assumed that a similar type of surfactant is also anaerobically biodegradable (e.g. literature data confirming the anaerobic biodegradability of surfactants belonging to the group alkyl ester ammonium salts may be used as documentation for a similar anaerobic biodegradability of other quaternary ammonium salts containing ester-linkages in the alkyl chain(s)).

2. *Perform screening test for anaerobic degradability.* If new testing is necessary, perform a screening test by use of EN ISO 11734, ECETOC No 28 (June 1988), OECD 311 or an equivalent method.
  3. *Perform low-dosage degradability test.* If new testing is necessary, and in the case of experimental problems in the screening test (e.g. inhibition due to toxicity of test substance), repeat testing by using a low dosage of surfactant and monitor degradation by  $^{14}\text{C}$  measurements or chemical analyses. Testing at low dosages may be performed by use of OECD 308 (August 2000) or an equivalent method.
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