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Legislation

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

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

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[1] Text with EEA relevance

(Continued on inside back cover)

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 18 July 2011

on the signing, on behalf of the Union, of the Agreement between the European Union and Australia amending the Agreement on mutual recognition in relation to conformity assessment, certificates and markings between the European Community and Australia

(2011/456/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Agreement on mutual recognition in relation to conformity assessment, certificates and markings between the European Community and Australia [1] (the Agreement on mutual recognition) entered into force on 1 January 1999 [2].

(2) On 8 July 2002, the Council authorised the Commission to open negotiations with Australia with a view to amending the Agreement on mutual recognition. The negotiations were successfully concluded by the initialling of the Agreement between the European Union and Australia amending the Agreement on mutual recognition in relation to conformity assessment, certificates and markings between the European Community and Australia (the Agreement) in Brussels on 23 June 2009.

(3) As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community.

(4) The Agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Agreement between the European Union and Australia amending the Agreement on mutual recognition in relation to conformity assessment, certificates and markings between the European Community and Australia (the Agreement) is hereby authorised on behalf of the Union, subject to the conclusion of the said Agreement [3].

Article 2

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

Article 3

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

Done at Brussels, 18 July 2011.

For the Council
The President
M. DOWGIELEWICZ

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[1] OJ L 229, 17.8.1998, p. 3.
[2] OJ L 5, 9.1.1999, p. 74.

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

COUNCIL DECISION

of 19 July 2011

on the position to be taken by the European Union within the EEA Joint Committee concerning an amendment to Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms (MEDIA Mundus)

(2011/457/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 166 and 173 and Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Protocol 31 to the Agreement on the European Economic Area [1] ('the EEA Agreement') contains specific provisions and arrangements concerning cooperation in specific fields outside the four freedoms.

(2) It is appropriate to extend the cooperation of the Contracting Parties to the EEA Agreement to include Decision No 1041/2009/EC of the European Parliament and of the Council of 21 October 2009 establishing an audiovisual cooperation programme with professionals from third countries (MEDIA Mundus) [2].

(3) Protocol 31 to the EEA Agreement should therefore be amended accordingly.

(4) The position of the Union within the EEA Joint Committee should be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the EEA Joint Committee on the proposed amendment to Protocol 31 to the EEA Agreement shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

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

Done at Brussels, 19 July 2011.

For the Council
The President
M. SAWICKI

[1] OJ L 1, 3.1.1994, p. 3.
[2] OJ L 288, 4.11.2009, p. 10.

DRAFT

DECISION No …/2011 OF THE EEA JOINT COMMITTEE

of …

amending Protocol 31 to the EEA Agreement, on cooperation in specific fields outside the four freedoms

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area ('the Agreement'), and in particular Articles 86 and 98 thereof,

Whereas:

(1) Protocol 31 to the Agreement was amended by Decision of the EEA Joint Committee No …/… of … [1].

(2) It is appropriate to extend the cooperation of the Contracting Parties to the Agreement to include Decision No 1041/2009/EC of the European Parliament and of the Council of 21 October 2009 establishing an audiovisual cooperation programme with professionals from third countries (MEDIA Mundus) [2].

(3) Protocol 31 to the Agreement should therefore be amended in order to allow for this extended cooperation to take place. That amendment should apply from 1 January 2011,

HAS ADOPTED THIS DECISION:

Article 1

The following indent is added to Article 9(4) of Protocol 31 to the Agreement:

'— **32009 D 1041**: Decision No 1041/2009/EC of the European Parliament and of the Council of 21 October 2009 establishing an audiovisual cooperation programme with professionals from third countries (MEDIA Mundus) (OJ L 288, 4.11.2009, p. 10).

Liechtenstein shall be exempted from the participation in, and the financial contribution to, this programme.'.

Article 2

This Decision shall enter into force on the day following the last notification to the EEA Joint Committee pursuant to Article 103(1) of the Agreement. (*)

It shall apply from 1 January 2011.

Article 3

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at …, …

For the EEA Joint Committee

The President *The Secretaries to the EEA Joint Committee*

[1] OJ L …
[2] OJ L 288, 4.11.2009, p. 10.

(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

COUNCIL DECISION

of 19 July 2011

on the position to be taken by the European Union within the EEA Joint Committee concerning an amendment to Annex XIII (Transport) to the EEA Agreement

(2011/458/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 100(2) and 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Annex XIII to the Agreement on the European Economic Area [1] ('the EEA Agreement') contains specific provisions and arrangements concerning transport.

(2) Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community [2] should be incorporated in the EEA Agreement.

(3) Regulation (EC) No 1008/2008 has repealed Council Regulations (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers [3], (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes [4] and (EEC) No 2409/92 of 23 July 1992 on fares and rates for air services [5], which are currently incorporated in the EEA Agreement.

(4) Annex XIII to the EEA Agreement should therefore be amended accordingly.

(5) The position of the Union within the EEA Joint Committee should be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the EEA Joint Committee on the proposed amendment to Annex XIII to the EEA Agreement shall be based on the draft Decision of the EEA Joint Committee attached to this Decision.

Article 2

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

Done at Brussels, 19 July 2011.

For the Council
The President
M. SAWICKI

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[1] OJ L 1, 3.1.1994, p. 3.
[2] OJ L 293, 31.10.2008, p. 3.
[3] OJ L 240, 24.8.1992, p. 1.
[4] OJ L 240, 24.8.1992, p. 8.
[5] OJ L 240, 24.8.1992, p. 15.

DRAFT

DECISION No …/2011 OF THE EEA JOINT COMMITTEE

of …

amending Annex XIII (Transport) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area ('the Agreement'), and in particular Article 98 thereof,

Whereas:

(1) Annex XIII to the Agreement was amended by Decision of the EEA Joint Committee No …/… of … [1].

(2) Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community [2] should be incorporated into the Agreement.

(3) Regulation (EC) No 1008/2008 has repealed Council Regulations (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers [3], (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes [4] and (EEC) No 2409/92 of 23 July 1992 on fares and rates for air services [5], which are incorporated in the Agreement.

(4) Annex XIII to the Agreement should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex XIII to the Agreement is hereby amended as follows:

(1) point 64a is replaced by the following:

'64a **32008 R 1008**: Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (OJ L 293, 31.10.2008, p. 3).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) in Article 4(f) the words ", except as provided for in an agreement with a third country to which the Community is a party;" shall be replaced by the following:

". However, operating licenses with legal effects in the entire EEA can be granted on the basis of exceptions to this requirement provided for in agreements with third countries to which the Community or one or more EFTA States are parties, provided the EEA Joint Committee adopts a decision to that effect.";

(b) the following is added to Article 16(9), second subparagraph:

", as well as regional airports in Iceland and the four northernmost counties in Norway.".';

(2) point 65 is deleted;

(3) point 66b is deleted.

Article 2

The text of Regulation (EC) No 1008/2008 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 3

This Decision shall enter into force on …, provided that all the notifications pursuant to Article 103(1) of the Agreement have been made to the EEA Joint Committee (*).

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at …, …

For the EEA Joint Committee

The President *The Secretaries to the EEA Joint Committee*

[1] OJ L ….
[2] OJ L 293, 31.10.2008, p. 3.
[3] OJ L 240, 24.8.1992, p. 1.
[4] OJ L 240, 24.8.1992, p. 8.
[5] OJ L 240, 24.8.1992, p. 15.

(*) [No constitutional requirements indicated.] [Constitutional requirements indicated.]

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 723/2011

of 18 July 2011

extending the definitive anti-dumping duty imposed by Regulation (EC) No 91/2009 on imports of certain iron or steel fasteners originating in the People's Republic of China to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] (the 'basic Regulation'), and in particular Article 13 thereof,

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

Whereas:

1. PROCEDURE

1.1. Existing measures

(1) By Regulation (EC) No 91/2009 [2], ('the original Regulation'), the Council imposed a definitive anti-dumping duty of 85 % on imports of certain iron or steel fasteners originating in the People's Republic of China ('the PRC' or 'China') for all companies other than the ones mentioned in Article 1(2) and in Annex 1 to that Regulation. These measures will hereinafter be referred to as 'the measures in force' and the investigation that led to the measures imposed by the original Regulation will be hereinafter referred to as 'the original investigation'.

1.2. *Ex-officio* initiation

(2) Following the original investigation, evidence at the disposal of the Commission indicated that the anti-dumping measures on imports of certain iron or steel fasteners originating in the PRC ('the product concerned') are being circumvented by means of transhipment via Malaysia.

(3) Prima facie evidence at the Commission's disposal showed that, following the imposition of the measures in force, a significant change in the pattern of trade involving exports from the PRC and Malaysia to the Union occurred, which seemed to be caused by the imposition of the measures in force. There was insufficient due cause or justification other than the imposition of the measures in force for such a change.

(4) Furthermore, the evidence pointed to the fact that the remedial effects of the measures in force were being undermined both in terms of quantity and price. The evidence showed that these increased imports from Malaysia were made at prices below the non-injurious price established in the original investigation.

(5) Finally, there was evidence that prices of certain iron or steel fasteners consigned from Malaysia were dumped in relation to the normal value established for the like product during the original investigation.

(6) Having determined, after consulting the Advisory Committee, that sufficient prima facie evidence existed for the initiation of an investigation pursuant to Article 13 of the basic Regulation, the Commission, on an *ex-officio* basis, initiated an investigation by Regulation (EU) No 966/2010 [3] ('the initiating Regulation'). Pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission, by the initiating Regulation, also directed the customs authorities to register imports of certain iron or steel fasteners consigned from Malaysia.

1.3. Investigation

(7) The Commission officially advised the authorities of the PRC and Malaysia, the exporting producers and traders in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation. Questionnaires were sent to the producers/exporters in the PRC and Malaysia known to the Commission or which made themselves known within the deadlines specified in recital 19 of the initiating Regulation. Questionnaires were also sent to importers in the Union. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time- limit set in the initiating Regulation.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 29, 31.1.2009, p. 1.
[3] OJ L 282, 28.10.2010, p. 29.

(8) Nineteen exporting producers in Malaysia, three groups of exporting producers in China and three unrelated importers in the Union made themselves known. Several other companies contacted the Commission but claimed that they were not involved in the production or export of the product under investigation.

(9) The following companies submitted replies to the questionnaires and verification visits were subsequently carried out at their premises, with the exception of Menara Kerjaya Fasteners Sdn. Bhd, TR Formac Sdn. Bhd. and Excel Fastener Manufacturing Sdn. Bhd:

Exporting producers in Malaysia:

— Sofasco Industries (M) Sdn. Bhd, Penang,

— Tigges Fastener Technology (M) Sdn. Bhd, Ipoh,

— MCP Precision Sdn. Bhd, Penang,

— HBS Fasteners Sdn. Bhd, Klang,

— TZ Fasteners (M) Sdn. Bhd, Klang,

— Menara Kerjaya Fasteners Sdn. Bhd, Penang,

— Chin Well Fasteners Company Sdn. Bhd, Penang,

— Acku Metal Industries (M) Sdn. Bhd, Penang,

— Grand Fasteners Sdn. Bhd, Klang,

— Jinfast Industries Sdn. Bhd, Penang,

— Andfast Malaysia Sdn. Bhd, Ipoh,

— ATC Metal Industrial Sdn. Bhd, Klang,

— Pertama Metal Industries Sdn. Bhd, Shah Alam,

— Excel Fastener Manufacturing Sdn. Bhd, Ipoh,

— TI Metal Forgings Sdn. Bhd, Ipoh,

— TR Formac (Malaysia) Sdn. Bhd, Klang,

— United Bolt and Nut Sdn. Bhd, Seremban,

— Power Steel and Electro Plating Sdn. Bhd, Klang,

— KKC Fastener Industry Sdn. Bhd, Melaka.

1.4. **Investigation period**

(10) The investigation period covered the period from 1 January 2008 to 30 September 2010 (the 'IP'). Data was collected for the IP to investigate, inter alia, the alleged change in the pattern of trade. For the period 1 October 2009 to 30 September 2010 more detailed data were collected in order to examine the possible undermining of the remedial effect of the measures in force and existence of dumping.

2. **RESULTS OF THE INVESTIGATION**

2.1. **General considerations**

(11) In accordance with Article 13(1) of the basic Regulation, the assessment of the existence of circumvention was made by analysing successively whether there was a change in the pattern of trade between third countries and the Union; if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty; if there was evidence of injury or that the remedial effects of the duty were being undermined in terms of the prices and/or quantities of the like product; and whether there was evidence of dumping in relation to the normal values previously established for the like product, if necessary in accordance with the provisions of Article 2 of the basic Regulation.

2.2. **Product concerned and the like product**

(12) The product concerned is as defined in the original investigation: Certain iron or steel fasteners, other than of stainless steel, i.e. wood screws (excluding coach screws), self-tapping screws, other screws and bolts with heads (whether or not with their nuts or washers, but excluding screws turned from bars, rods, profiles or wire, of solid section, of a shank thickness not exceeding 6 mm and excluding screws and bolts for fixing railway track construction material), and washers, originating in the PRC, currently falling within CN codes 7318 12 90, 7318 14 91, 7318 14 99, 7318 15 59, 7318 15 69, 7318 15 81, 7318 15 89, ex 7318 15 90, ex 7318 21 00 and ex 7318 22 00.

(13) The product under investigation is the same as that defined in recital 12, but consigned from Malaysia, whether declared as originating in Malaysia or not.

(14) The investigation showed that iron or steel fasteners, as defined above, exported to the Union from the PRC and those consigned from Malaysia to the Union have the same basic physical and technical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

2.3. **Degree of cooperation and determination of the trade volumes**

(15) As stated in recital 9, 19 exporting producers in Malaysia and three exporting producers in China cooperated by submitting questionnaire replies.

Malaysia

(16) After the submission of its questionnaire reply, one Malaysian company notified the Commission that it had ceased its activities and therefore it withdrew its cooperation.

(17) In the case of several other Malaysian companies the application of Article 18(1) of the basic Regulation was found to be warranted for the reasons explained below in recitals 32 to 60.

(18) The cooperating Malaysian exporting producers covered 55 % of the total Malaysian exports of the product under investigation to the Union in the IP as reported in Comext. The overall export volumes were based on Comext.

People's Republic of China

(19) There was a low level of cooperation by producers/exporters in the PRC, with only three exporters/producers submitting a questionnaire reply. Moreover, none of these companies exported the product concerned to the Union or to Malaysia. Therefore, on the basis of the information submitted by the cooperating parties no reasonable determination could be made as to export volumes of the product concerned from the PRC.

(20) Given the above, findings in respect of imports of certain iron or steel fasteners into the Union and exports of the product concerned from the PRC to Malaysia had to be made partially on the basis of facts available in accordance with Article 18 of the basic Regulation. Comext data were used to determine overall import volumes from the PRC to the Union. Chinese and Malaysian national statistics were used for the determination of the overall exports to Malaysia from the PRC. Data were also cross-checked with detailed import- and export data that were provided by the customs authorities of Malaysia.

(21) The import volume recorded in Malaysian and Chinese statistics covered a larger product group than the product concerned or the product under investigation. However, in view of Comext data and verified data regarding Chinese and Malaysian fastener producers, it could be established that a significant part of this import volume covered the product concerned. Accordingly, these data could be used to establish any change in the pattern of trade and they could be cross-checked with other data such as the data provided by the cooperating exporting producers and importers.

2.4. **Change in the pattern of trade**

Imports of certain iron or steel fasteners into the Union

(22) Imports of the product concerned from China to the Union dropped dramatically subsequent to the imposition of the original measures in January 2009.

(23) On the other hand, total imports of the product under investigation from Malaysia to the Union increased significantly in 2009 and 2010. Both Comext data and the export data provided by the cooperating companies show that exports from Malaysia to the Union increased in those years whereas they were stable in previous years.

(24) Table 1 shows import quantities of certain iron or steel fasteners from the PRC and Malaysia into the Union since the imposition of the measures in 2009:

Table 1

Evolution of imports of certain iron or steel fasteners to the Union since the imposition of the measures

Import volumes given in tonnes	2008	2009	1.10.2009-30.9.2010
PRC	432 049	64 609	27 000
Share of total imports	82,2 %	38,0 %	15,4 %
Malaysia	8 791	31 050	89 000
Share of total imports	1,7 %	18,3 %	50,9 %

Source: Comext, Malaysian, Chinese statistics.

(25) The data above clearly show that since 2009 Malaysian exporters have significantly outsold and to some extent replaced the Chinese exporters on the Union market in terms of volume. Since the imposition of the measures, the decrease of Chinese imports into the Union has been significant (94 %).

Chinese exports to Malaysia

(26) A dramatic increase of exports of fasteners can also be observed from the PRC to Malaysia within the same period: from a relatively small amount in 2008 (8 829 tonnes) they increased to 89 471 tonnes in the IP.

Table 2

Import of fasteners from China into Malaysia from 2008

	2008	2009	1.10.2009-30.9.2010
Import (MT)	8 829	61 973	89 471
Yearly change (%)		*600 %*	*45 %*
Index (2008 = 100)	*100*	*700*	*1 013*

Source: Malaysian customs statistics.

(27) To establish the trend of the China to Malaysia trade flow of certain iron or steel fasteners, both Malaysian and Chinese statistics were considered. Both of these data are only available at a higher product group level than the product concerned. However, in view of Comext data and verified data regarding Chinese and Malaysian fastener producers, it was established that a significant part covered the product concerned, so these data could be taken into account.

Production volumes in Malaysia

(28) The evolution of the total production volume of cooperating producers in Malaysia had remained relatively stable prior to the imposition of measures in 2009. Malaysian producers however have increased their output since then considerably.

Table 3

Production of the product under investigation of the cooperating companies in Malaysia

	2008	2009	1.10.2009-30.9.2010
Production volume (MT)	38 763	33 758	61 262

Source: Information provided by the cooperating producers.

2.5. **Conclusion on the change in the pattern of trade**

(29) The overall decrease of Chinese exports to the Union as from 2009 and the parallel increase of exports from Malaysia and of exports from the PRC to Malaysia after the imposition of the original measures constituted a change in the pattern of trade between the above mentioned countries on the one hand and the Union on the other hand.

2.6. **Nature of the circumvention practice**

(30) Article 13(1) of the basic Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes, inter alia, the consignment of the product subject to measures via third countries and the assembly of parts by an assembly operation in the Union or a third country. For this purpose the existence of assembly operations is determined in accordance with Article 13(2) of the basic Regulation.

Transhipment

(31) The investigation revealed that some importers in the Union had sourced Chinese origin fasteners from Malaysian exporters who had not cooperated with the present investigation. This information was cross-checked with Malaysian trade databases which showed that at least some of the fasteners exported by these non-cooperating companies were indeed produced in the PRC.

(32) In addition, as set out in detail in recitals 52 to 58 below, it was found that a number of the cooperating Malaysian producers provided misleading information, in particular regarding the relationship to Chinese manufacturers, imports of finished goods from China and the origin of exports of the product under investigation to the Union. Some of them were found to export Chinese origin iron or steel fasteners to the Union. This is also confirmed by the findings with regard to the change in the pattern of trade as described above in recital 29.

(33) In 2009 the European Anti-fraud Office (OLAF) started an investigation into the alleged transhipment of the same product through Malaysia. Moreover, the investigation revealed that the Malaysian authorities have carried out investigations into alleged circumvention practices at the same time and concluded that several companies, mainly traders, committed fraud by falsifying the origin of certain iron or steel fasteners imported from the PRC to Malaysia when re-exporting the product.

(34) The existence of transhipment of Chinese-origin products via Malaysia was therefore confirmed.

Assembly and/or completion operations

(35) One company inspected was not manufacturing fasteners from raw material (i.e. wire rod) but was completing fasteners from semi-finished blanks, (i.e. wire rod that had been cut and headed, but not yet threaded, heat treated or plated). However, this company did not export during the IP. Another company was manufacturing fasteners mainly from wire rod, but also some from semi-finished blanks. For this company, it was established that no circumvention took place in the light of the provisions set out in Article 13(2) of the basic Regulation, as set out in more detail in recitals 62 and 63 below.

2.7. **Insufficient due cause or economic justification other than the imposition of the anti-dumping duty**

(36) The investigation did not bring to light any other due cause or economic justification for the transhipment than the avoidance of the measures in force on certain iron or steel fasteners originating in the PRC. No elements were found, other than the duty, which could be considered as a compensation for the costs of transhipment, in particular regarding transport and reloading, of the product concerned from the PRC via Malaysia.

2.8. **Undermining of the remedial effect of the anti-dumping duty**

(37) To assess whether the imported products had, in terms of quantities and prices, undermined the remedial effects of the measures in force on imports of certain iron or steel fasteners originating in the PRC, verified data from the cooperating exporting producers and Comext data were used as the best data available concerning quantities and prices of exports by non-cooperating companies. The prices so determined were compared to the injury elimination level established for Union producers in recital 226 of the original Regulation.

(38) The increase of imports from Malaysia was considered to be significant in terms of quantities. The estimated Union consumption in the IP gives a similar indication about the significance of these imports. The comparison of the injury elimination level as established in the original Regulation and the weighted average export price showed significant underselling. It was therefore concluded that the remedial effects of the measures in force are being undermined both in terms of quantities and prices.

2.9. **Evidence of dumping**

(39) Finally, in accordance with Article 13(1) and (2) of the basic Regulation it was examined whether there was evidence of dumping in relation to the normal value previously established for the like products.

(40) In the original Regulation the normal value was established on the basis of prices in India, which in that investigation was found to be an appropriate market economy analogue country for the PRC. It was considered appropriate to use the normal value as previously established in line with Article 13(1) of the basic Regulation.

(41) A significant part of Malaysian exports were covered by non-cooperating exporters or by cooperating exporters that had provided misleading information. For this reason, for establishing the export prices from Malaysia, it was decided to base them on facts available, i.e. on the average export price of certain iron or steel fasteners during the IP as reported in Comext.

(42) For the purpose of a fair comparison between the normal value and the export price, due allowance, in the form of adjustments, was made for differences which affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. Accordingly, adjustments were made for differences in indirect taxes, transport and insurance costs based on the average costs of the cooperating Malaysian producers/exporters in the IP.

(43) In accordance with Article 2(11) and (12) of the basic Regulation, dumping was calculated by comparing the weighted average normal value as established in the original Regulation and the weighted average export prices during this investigation's IP, expressed as a percentage of the cif price at the Union frontier, duty unpaid.

(44) The comparison of the weighted average normal value and the weighted average export prices so established showed dumping.

3. **MEASURES**

(45) Given the above, it was concluded that the definitive anti-dumping duty imposed on imports of certain iron or steel fasteners originating in the PRC was circumvented by transhipment from Malaysia pursuant to Article 13(1) of the basic Regulation.

(46) In accordance with the first sentence of Article 13(1) of the basic Regulation, the measures in force on imports of the product concerned originating in the PRC, should be extended to imports of the same product consigned from Malaysia, whether declared as originating in Malaysia or not.

(47) In particular in the light of the low level of cooperation from Chinese exporting producers, the measure to be extended should be the one established in Article 1(2) of Regulation (EC) No 91/2009 for 'all other companies', which is a definitive anti-dumping duty of 85 % applicable to the net, free-at-Union-frontier price, before duty.

(48) In accordance with Articles 13(3) and 14(5) of the basic Regulation, which provides that any extended measure should apply to imports which entered the Union under registration imposed by the initiating Regulation, duties should be collected on those registered imports of certain iron or steel fasteners consigned from Malaysia.

4. **REQUESTS FOR EXEMPTION**

(49) The 19 companies in Malaysia submitting a questionnaire reply requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation.

(50) As explained in recital 16, one of these companies subsequently ceased cooperation and withdrew its request for an exemption.

(51) Two companies were found not to export the product during the IP and no conclusions could be drawn as to the nature of their operations. Therefore, an exemption to these companies can not be granted at this stage. However, should it appear, after extension of the anti-dumping measures in force, that the conditions in Article 11(4) and 13(4) of the basic Regulation are fulfilled, both companies may request a review of their situation.

(52) One of these companies questioned, since there had not been a request from the Union industry for registration, whether Article 14(5),second sentence, of the basic Regulation had been respected when the registration of the imports was instructed in the initiating Regulation. However, this was an anti-circumvention investigation initiated by the Commission *ex officio* on the basis of Article 13(3) in conjunction with the first sentence of Article 14(5) of the basic Regulation. The second sentence of Article 14(5) of the basic Regulation is therefore not relevant for this case. Any other interpretation would remove the *effet utile* of the fact that Article 13(3) of the basic Regulation provides that the Commission can *ex officio* investigate possible circumvention.

(53) The same company also alleged that consultation of the Advisory Committee, as set out in the first sentence of Article 14(5) of the basic Regulation, would not have taken place. However, in accordance with Article 13(3) and Article 14(5) of the basic Regulation, the initiation was instigated by the Commission after consultation of the Advisory Committee, even though this was not explicitly mentioned in the initiating Regulation.

(54) Seven companies were found to have provided false or misleading information. In accordance with Article 18(4) of the basic Regulation, these companies were informed of the intention to disregard the information submitted by them and were granted a time-limit to provide further explanations.

(55) Further explanations by these companies were not such that this would lead to a change in the conclusion that these companies have misled the investigation. Therefore in accordance with Article 18(1) of the basic Regulation, findings with regard to these companies were based on facts available.

(56) Two of these seven companies were found to have hidden imports of finished goods from the PRC. One of these companies had also falsified invoices. Another company in Malaysia manufacturing and exporting fasteners that requested an exemption appeared to be related to this company.

(57) Two other companies were found to have hidden their relationship to a Chinese manufacturer of certain iron or steel fasteners.

(58) Finally, two other companies were found to have hidden their relationship to each other, not having the production capacity to produce what they export and impeded the investigation by not providing necessary information.

(59) In view of the findings with regard to the change in the pattern of trade and transhipment practices, as set out in recitals 22 to 34 above, and taking into account the nature of the misleading information as set out in recitals 56 to 58 above, the exemptions as requested by these seven companies could, in accordance with Article 13(4) of the basic Regulation, not be granted.

(60) One company could not show any fastener production facility and refused access to its accounts. Furthermore, evidence of transhipment practices during the IP was found. Therefore the exemption could, in accordance with Article 13(4) of the basic Regulation, not be granted.

(61) The remaining eight Malaysian exporting producers were found not to be engaged in circumvention practices and therefore exemptions to these companies can be granted.

(62) One of these eight companies was established after the imposition of the measures in force by its Chinese parent company, which is subject to these measures. The Chinese parent company has gradually transferred part of its machinery to Malaysia for the purpose of serving the EU market through Malaysia. In the start-up phase the company produced some fasteners from semi-finished products that were shipped from its Chinese parent company for completion. At a later stage, but still in the IP, when more machinery was transferred, fasteners were mainly produced from the raw material steel wire rod, also shipped from its Chinese parent company.

(63) Initially it was considered that an exemption to this company should be denied. However, in view of the comments received after disclosure, among others with regard to the value added to the product in Malaysia, it was concluded that the company was not engaged in circumvention practices. Accordingly, an exemption to this company can be granted.

(64) Another of these eight companies is also related to a company in the PRC that is subject to the original measures. However this Malaysian company was established in 1998 by its Taiwanese owners who only at a later stage, but still before the measures against the PRC came into force, established the subsidiary in the PRC. There is no evidence that this relationship was established or used to circumvent the measures in place on imports originating in the PRC in the sense of Article 13(4) of the basic Regulation.

(65) It is considered that special measures are needed in this case in order to ensure the proper application of such exemptions. These special measures are the requirement of the 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 to this Regulation. Imports not accompanied by such an invoice shall be made subject to the extended anti-dumping duty.

(66) Other producers which did not come forward in this proceeding and did not export the product under investigation during the IP, which intend to lodge a request for an exemption from the extended anti-dumping duty pursuant to Articles 11(4) and 13(4) of the basic Regulation will be required to complete a questionnaire in order to enable the Commission to assess such a request. The Commission would normally also carry out an on-spot verification visit. Provided that the conditions set in Articles 11(4) and 13(4) of the basic Regulation are met, an exemption may be warranted.

(67) Where an exemption is warranted, the Commission will, after consultation of the Advisory Committee, propose the amendment of this Regulation accordingly. Subsequently, any exemption granted will be monitored to ensure compliance with the conditions set therein.

5. **DISCLOSURE**

(68) All interested parties were informed of the essential facts and considerations leading to the above conclusions and were invited to comment. The oral and written comments submitted by the parties were considered. With the exception of the comments received from a company as set out in recitals 62 and 63 above, none of the arguments presented gave rise to a modification of the definitive findings,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty applicable to 'all other companies' imposed by Article 1(2) of Regulation (EC) No 91/2009 on imports of certain iron or steel fasteners, other than of stainless steel, i.e. wood screws (excluding coach screws), self-tapping screws, other screws and bolts with heads (whether or not with their nuts or washers, but excluding screws turned from bars, rods, profiles or wire, of solid section, of a shank thickness not exceeding 6 mm and excluding screws and bolts for fixing railway track construction material), and washers, originating in the People's Republic of China, is hereby extended to imports of certain iron or steel fasteners, other than of stainless steel, i.e. wood screws (excluding coach screws), self-tapping screws, other screws and bolts with heads (whether or not with their nuts or washers, but excluding screws turned from bars, rods, profiles or wire, of solid section, of a shank thickness not exceeding 6 mm and excluding screws and bolts for fixing railway track construction material), and washers, consigned from Malaysia whether declared as originating in Malaysia or not, currently falling within CN codes ex 7318 12 90, ex 7318 14 91, ex 7318 14 99, ex 7318 15 59, ex 7318 15 69, ex 7318 15 81, ex 7318 15 89, ex 7318 15 90, ex 7318 21 00 and ex 7318 22 00 (TARIC codes 7318 12 90 11, 7318 12 90 91, 7318 14 91 11, 7318 14 91 91, 7318 14 99 11, 7318 14 99 91, 7318 15 59 11, 7318 15 59 61, 7318 15 59 81, 7318 15 69 11, 7318 15 69 61, 7318 15 69 81, 7318 15 81 11, 7318 15 81 61, 7318 15 81 81, 7318 15 89 11, 7318 15 89 61, 7318 15 89 81, 7318 15 90 21, 7318 15 90 71, 7318 15 90 91, 7318 21 00 31, 7318 21 00 95, 7318 22 00 31 and 7318 22 00 95), with the exception of those produced by the companies listed below:

Company	**TARIC additional code**
Acku Metal Industries (M) Sdn. Bhd	B123
Chin Well Fasteners Company Sdn. Bhd	B124
Jinfast Industries Sdn. Bhd	B125
Power Steel and Electroplating Sdn. Bhd	B126
Sofasco Industries (M) Sdn. Bhd	B127
Tigges Fastener Technology (M) Sdn. Bhd	B128
TI Metal Forgings Sdn. Bhd	B129
United Bolt and Nut Sdn. Bhd	B130

2. The application of exemptions granted to the companies specifically mentioned in paragraph 1 of this Article or authorised by the Commission in accordance with Article 2(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. If no such invoice is presented, the anti-dumping duty as imposed by paragraph 1 of this Article shall apply.

3. The duty extended by paragraph 1 of this Article shall be collected on imports consigned from Malaysia, whether declared as originating in Malaysia or not, registered in accordance with Article 2 of Regulation (EU) No 966/2010 and Articles 13(3) and 14(5) of Regulation (EC) No 1225/2009, with the exception of those produced by the companies listed in paragraph 1.

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

Article 2

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate H
Office: N-105 04/92
1049 Brussels
Belgium

Fax +32 22956505

2. In accordance with Article 13(4) of Regulation (EC) No 1225/2009, the Commission, after consulting the Advisory Committee, may authorise, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Regulation (EC) No 91/2009, from the duty extended by Article 1.

Article 3

Customs authorities are hereby directed to discontinue the registration of imports, established in accordance with Article 2 of Regulation (EU) No 966/2010.

Article 4

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

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

Done at Brussels, 18 July 2011.

For the Council
The President
M. DOWGIELEWICZ

ANNEX

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(2):

(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 (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct.';

(3) date and signature.

COMMISSION IMPLEMENTING REGULATION (EU) No 724/2011

of 25 July 2011

amending Regulation (EU) No 468/2010 establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 [1], in particular Article 30 thereof,

Whereas:

(1) Chapter V of Regulation (EC) No 1005/2008 lays down procedures for the identification of fishing vessels engaged in illegal, unreported and unregulated fishing (IUU fishing vessels) as well as procedures for establishing a European Union list of such vessels. Article 37 of that Regulation provides for actions to be taken against fishing vessels included in that list.

(2) The Union list of IUU fishing vessels is set out in Commission Regulation (EU) No 468/2010 [2].

(3) According to Article 30(1) of Regulation (EC) No 1005/2008, the Union list should comprise fishing vessels included in the IUU vessel lists adopted by regional fisheries management organisations.

(4) According to Article 30 of Regulation (EC) No 1005/2008, upon the receipt from regional fisheries management organisations of the lists of fishing vessels presumed or confirmed to be involved in IUU fishing, the Commission shall update the Union list.

(5) The Commission has received the updated lists from the annual meetings of the regional fisheries management organisations.

(6) Considering that the same vessel might be listed under different names and/or flags depending on the time of its inclusion on the regional fisheries management organisations lists, the updated Union list should include the different names and/or flags as established by the respective regional fisheries management organisations.

(7) Regulation (EU) No 468/2010 should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Part B of the Annex to Regulation (EU) No 468/2010 is replaced by the text in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 25 July 2011.

For the Commission
The President
José Manuel BARROSO

[1] OJ L 286, 29.10.2008, p. 1.
[2] OJ L 131, 29.5.2010, p. 22.

ANNEX

'PART B

Vessels listed in accordance with Article 30 of Regulation (EC) No 1005/2008

IMO [1] ship identification number/RFMO reference	Vessel's name (previous name) [2]	Flag State [RFMO] [2]	Listed in RFMO [2]
20080003 (ICCAT)	ABDI BABA 1 (EROL BÜLBÜL)	Bolivia (previous flag: Turkey)	ICCAT
20060010 (ICCAT)	ACROS No 2	Unknown (latest known flag: Honduras)	ICCAT
20060009 (ICCAT)	ACROS No 3	Unknown (latest known flag: Honduras)	ICCAT
7306570	ALBORAN II (WHITE ENTERPRISE)	Panama (previous flag: St Kitts and Nevis)	NEAFC, NAFO, SEAFO
	ALDABRA	Togo	CCAMLR, SEAFO
7036345	AMORINN	Togo	CCAMLR, SEAFO
12290 (IATTC)/200800007 (ICCAT)	BHASKARA Nº10	Unknown [IATTC]/Indonesia [ICCAT]	IATTC, ICCAT
12291 (IATTC)/200800008 (ICCAT)	BHASKARA Nº9	Unknown (latest known flag: Indonesia)	IATTC, ICCAT
141 (IATTC)/200800009 (ICCAT)	BHINEKA	Indonesia	IATTC, ICCAT
20060001 (ICCAT)	BIGEYE	Unknown	ICCAT
20040005 (ICCAT)	BRAVO	Unknown	ICCAT
9407 (IATTC)/200800019 (ICCAT)	CAMELOT	Unknown	IATTC, ICCAT
5769 (IATTC)	CARIBBEAN STAR No. 31	Unknown	IATTC
6803961	CARMELA (GOLD DRAGON/ GOLDEN SUN)	Unknown (latest known flags: Togo, Equatorial Guinea) [CCAMLR]/Togo [SEAFO]	CCAMLR, SEAFO
20080002 (ICCAT)	CEVAHIR (SALIH BAYRAK TAR)	Bolivia (previous flag: Turkey)	ICCAT
6622642	CHALLENGE (MILA/PERSEVERANCE)	Panama (previous flags: Equatorial Guinea, UK)	CCAMLR, SEAFO
	CHERNE (BIGARO, SARGO) [CCAMLR]/BIGARO (SARGO) [SEAFO]	Mongolia (previous flag: Togo) [CCAMLR]/Togo [SEAFO]	CCAMLR, SEAFO
125 (IATTC)/200800020 (ICCAT)	CHIA HAO No 66	Unknown	IATTC, ICCAT
8713392	CHU LIM (YIN PENG/THOR 33)	Unknown (latest known flags: Togo, North Korea) [CCAMLR]/Togo [SEAFO]	CCAMLR, SEAFO
6607666	CONSTANT (TROPIC/ISLA GRACIOSA)	Unknown (latest known flags: Equatorial Guinea, South Africa) [CCAMLR]/Equatorial Guinea [SEAFO]	CCAMLR, SEAFO
20080001(ICCAT)	DANIAA (CARLOS)	Guinea Republic	ICCAT

IMO (1) ship identification number/RFMO reference	Vessel's name (previous name) (2)	Flag State [RFMO] (2)	Listed in RFMO (2)
8422852	DOLPHIN (OGNEVKA)	Russia (previous flag: Georgia) [NAFO]/Russia [SEAFO]/no flag indicated (NEAFC)	NEAFC, NAFO, SEAFO
6163 (IATTC)/200800018 (ICCAT)	DRAGON III	Unknown	IATTC, ICCAT
8604668	EROS DOS (FURABOLOS)	Panama (previous flag: Seychelles)	NEAFC, NAFO, SEAFO
	FU LIEN No. 1	Georgia	WCPFC
200800005 (ICCAT)	GALA I (MANARA II/ROAGAN)	Unknown (latest known flags: Libya, Isle of Man)	ICCAT
6591 (IATTC)/20090006 (ICCAT)	GOIDAU RUEY No 1	Unknown [IATTC]/Unknown (latest known flags: Belize, Costa Rica) [ICCAT]	IATTC, ICCAT
7020126	GOOD HOPE (TOTO/SEA RANGER V)	Nigeria (previous flag: Belize)	CCAMLR, SEAFO
6719419	GORILERO (GRAN SOL)	Unknown (latest known flags: Sierra Leone, Panama) [NAFO]/Unknown [NEAFC]/Sierra Leone (latest known flag: Panama) [SEAFO]	NEAFC, NAFO, SEAFO
2009003 (ICCAT)	GUNUAR MELYAN 21	Unknown	IOTC, ICCAT
7322926	HEAVY SEA (DUERO/KETA)	Panama	CCAMLR, SEAFO
5829 (IATTC)/200800010 (ICCAT)	HIROYOSHI 17	Indonesia	IATTC, ICCAT
201000004 (ICCAT)	HOOM XIANG 11	Unknown (latest known flag: Malaysia) [IOTC]/Malaysia [ICCAT]	IOTC, ICCAT
7332218	IANNIS 1	Panama [NAFO]/Unknown [NEAFC]/Unknown (latest known flag: Panama) [SEAFO]	NEAFC, NAFO, SEAFO
5833 (IATTC)/200800011 (ICCAT)	JIMMY WIJAYA 35	Indonesia	IATTC, ICCAT
	JINN FENG TSAIR No 1	Chinese Taipei	WCPFC
9505 (IATTC)/200800022 (ICCAT)	JYI LIH 88	Unknown	IATTC, ICCAT
6905408	KUKO (TYPHOON-1/RUBIN) [CCAMLR]/TYPHOON-1 (RUBIN) [SEAFO]	Mongolia (previous flags: Togo, Seychelles) [CCAMLR]/Togo [SEAFO]	CCAMLR, SEAFO
9037537	LANA (ZEUS/TRITON-1) [CCAMLR]/ZEUS (TRITON-1) [SEAFO]	Mongolia (previous flags: Togo, Sierra Leone) [CCAMLR]/Unknown (latest known flags: Togo, Sierra Leone) [SEAFO]	CCAMLR, SEAFO
20060007 (ICCAT)	LILA No 10	Unknown (latest known flag: Panama)	ICCAT
7388267	LIMPOPO (ROSS/ALOS)	Unknown (latest known flags: Togo, Ghana)	CCAMLR, SEAFO
20100003 (ICCAT)	LINGSAR 08	Indonesia	ICCAT

IMO (1) ship identification number/RFMO reference	Vessel's name (previous name) (2)	Flag State [RFMO] (2)	Listed in RFMO (2)
20040007 (ICCAT)	MADURA 2	Unknown	ICCAT
20040008 (ICCAT)	MADURA 3	Unknown	ICCAT
7325746	MAINE	Guinea Conakry	NEAFC, NAFO, SEAFO
20060002 (ICCAT)	MARIA	Unknown	ICCAT
9435 (IATTC)/200800006 (ICCAT)	MARTA LUCIA R	Colombia	IATTC, ICCAT
20060005 (ICCAT)	MELILLA No 101	Unknown (latest known flag: Panama)	ICCAT
20060004 (ICCAT)	MELILLA No 103	Unknown (latest known flag: Panama)	ICCAT
20100005 (ICCAT)	MILA A (SAMSON)	Honduras	ICCAT
7385174	MURTOSA	Unknown (latest known flag: Togo)	NEAFC, NAFO, SEAFO
5883 (IATTC)	MUTIARA 28	Indonesia	IATTC
8721595	NEMANSKIY	Unknown	NAFO
14613 (IATTC)	NEPTUNE	Georgia	IATTC, WCPFC
20060003 (ICCAT)	No. 101 GLORIA (GOLDEN LAKE)	Unknown (latest known flag: Panama)	ICCAT
20060008 (ICCAT)	No. 2 CHOYU	Unknown (latest known flag: Honduras)	ICCAT
20060011 (ICCAT)	No. 3 CHOYU	Unknown (latest known flag: Honduras)	ICCAT
9230658	NORTH OCEAN (JIAN YUAN/BOSTON-1)	China (previous flags: Georgia, Russia)	CCAMLR, SEAFO
20040006 (ICCAT)	OCEAN DIAMOND	Unknown	ICCAT
7826233	OCEAN LION	Unknown (latest known flag: Equatorial Guinea)	IOTC, ICCAT
11369 (IATTC)/200800025 (ICCAT)	ORCA	Unknown (latest known flag: Belize)	IATTC, ICCAT
20060012 (ICCAT)	ORIENTE No 7	Unknown (latest known flag: Honduras)	ICCAT
9404285	PARSIAN SHILA	Iran	ICCAT
92 (IATTC)/200800012 (ICCAT)	PERMATA	Indonesia	IATTC, ICCAT
5911 (IATTC)/200800013 (ICCAT)	PERMATA 1	Indonesia	IATTC, ICCAT
9509 (IATTC)/200800014 (ICCAT)	PERMATA 102	Indonesia [IATTC]/Unknown (latest known flag: Indonesia) [ICCAT]	IATTC, ICCAT
93 (IATTC)/200800026 (ICCAT)	PERMATA 138	Indonesia [IATTC]/Unknown [ICCAT]	IATTC, ICCAT

IMO (1) ship identification number/RFMO reference	Vessel's name (previous name) (2)	Flag State [RFMO] (2)	Listed in RFMO (2)
5813 (IATTC)/200800015 (ICCAT)	PERMATA 2	Indonesia	IATTC, ICCAT
5815 (IATTC)/200800016 (ICCAT)	PERMATA 6	Indonesia	IATTC, ICCAT
5907 (IATTC)/200800017 (ICCAT)	PERMATA 8	Indonesia	IATTC, ICCAT
6706084	RED (KABOU)	Panama (previous flag: Guinea Conakry)	NEAFC, NAFO, SEAFO
6818930	REX (CONDOR/INCA)	Unknown (latest known flags: Togo, Seychelles) [CCAMLR]/Togo [SEAFO]	CCAMLR, SEAFO
95 (IATTC)/200800027 (ICCAT)	REYMAR 6	Unknown (latest known flag: Belize)	IATTC, ICCAT
20100002 (ICCAT)	RWAD 1 (MARINE 88)	Oman (previous flag: St Kitts)	ICCAT
8221947	SENTA (SHIN TAKARA MARU)	Panama (previous flag: Japan)	WCPFC
7322897	SIMA QIAN BARU 22 (CORVUS/GALAXY) [CCAMLR]/CORVUS [SEAFO]	Democratic People's Republic of Korea [CCAMLR]/Panama [SEAFO]	CCAMLR, SEAFO
200800004 (ICCAT)	SHARON 1 (MANARA I/ POSEIDON)	Unknown (latest known flags: Libya, UK)	ICCAT
20050001 (ICCAT)	SOUTHERN STAR 136 (HSIANG CHANG)	Unknown (latest known flag: St Vincent and Grenadines)	ICCAT
7347407	SUNNY JANE	Unknown (latest known flag: Belize)	NAFO
9405 (IATTC)/200800028 (ICCAT)	TA FU 1	Unknown	IATTC, ICCAT
13568 (IATTC)/20090007 (ICCAT)	TCHING YE No. 6	Unknown (latest known flags: Panama, Belize)	IATTC, ICCAT
9319856	TROSKY (PALOMA V)	Cambodia (previous flags: Namibia, Uruguay) [CCAMLR]/Unknown [SEAFO]	CCAMLR, SEAFO
129 (IATTC)/200800029 (ICCAT)	WEN TENG No. 688	Unknown (latest known flag: Belize)	IATTC, ICCAT
9230672	WEST OCEAN (KIEV/DARVIN-1)	China (previous flags: Georgia, Russia)	CCAMLR, SEAFO
9042001	XIONG NU BARU 33 (DRACO-1, LIBERTY) [CCAMLR]/DRACO-1 [SEAFO])	Democratic People's Republic of Korea [CCAMLR]/Panama [SEAFO]	CCAMLR, SEAFO
	YU FONG 168	Chinese Taipei	WCPFC
2009002 (ICCAT)	YU MAAN WON	Unknown (latest known flag: Georgia)	IOTC, ICCAT
7321374	YUCATAN BASIN (ENXEMBRE/FONTE NOVA)	Panama (previous flag: Morocco)	NEAFC, NAFO, SEAFO

(1) International Maritime Organisation.
(2) For any additional information consult the websites of the RFMOs.'

COMMISSION IMPLEMENTING REGULATION (EU) No 725/2011

of 25 July 2011

establishing a procedure for the approval and certification of innovative technologies for reducing CO_2 emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO_2 emissions from light-duty vehicles [1], and in particular Article 12(2) thereof,

Whereas:

(1) In order to promote the development and the early uptake of new and advanced CO_2 emission-reducing vehicle technologies, Regulation (EC) No 443/2009 provides manufacturers and suppliers with the possibility of applying for the approval of certain innovative technologies contributing to reducing CO_2 emissions from passenger cars. Therefore, it is necessary to clarify the criteria for determining which technologies should be eligible as eco-innovations pursuant to that Regulation.

(2) According to point (c) of Article 12(2) of Regulation (EC) No 443/2009, technologies that are part of the Union's integrated approach outlined in the Commission Communication of 7 February 2007 entitled 'Results of the review of the Community Strategy to reduce CO_2 emissions from passenger cars and light-commercial vehicles' [2] and the Commission Communication of 7 February 2007 entitled 'A Competitive Automotive Regulatory Framework for the 21st Century' [3], and have been regulated in Union law, or other technologies that are mandatory under Union law, are not eligible as eco-innovations under that Regulation. These technologies include tyre pressure monitoring systems, tyre rolling resistance and gear shift indicators falling within the scope of Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefore [4] and, as regards tyre rolling resistance, Regulation (EC) No 1222/2009 of the European Parliament and of the Council of 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters [5].

(3) A technology that has already for some time been widely available on the market cannot be considered innovative within the meaning of Article 12 of Regulation (EC) No 443/2009 and should not be eligible as an eco-innovation. In order to create the right incentives, it is appropriate to limit the level of market penetration of a technology to that of the niche segment as defined in Article 11(4) of Regulation (EC) No 443/2009 and to use the year 2009 as a baseline. Those thresholds should be subject to review at the latest in 2015.

(4) In order to promote technologies with the highest potential for reducing CO_2 emissions from passenger cars, and in particular the development of innovative propulsion technologies, only those technologies should be eligible that are intrinsic to the transport function of the vehicle and contribute significantly to improving the overall energy consumption of the vehicle. Technologies that are accessory to that purpose or aim at enhancing the comfort of the driver or the passengers should not be eligible.

(5) According to Regulation (EC) No 443/2009, applications may be submitted by both manufacturers and suppliers. The application should include the necessary evidence that the eligibility criteria are fully met, including a methodology for measuring the CO_2 savings from the innovative technology.

(6) It should be possible to measure the CO_2 savings from an eco-innovation with a satisfactory degree of accuracy. That accuracy can only be achieved where the savings are 1 g CO_2/km or more.

(7) Where the CO_2 savings of a technology depends on the behaviour of the driver or on other factors that are outside the control of the applicant, that technology should in principle not be eligible as an eco-innovation, unless it is possible, on the basis of strong and independent statistical evidence, to make verifiable assumptions about average driver behaviour.

[1] OJ L 140, 5.6.2009, p. 1.
[2] COM(2007) 19 final.
[3] COM(2007) 22 final.
[4] OJ L 200, 31.7.2009, p. 1.
[5] OJ L 342, 22.12.2009, p. 46.

(8) The standard test cycle used for type approval measurement of the CO_2 emissions from a vehicle does not demonstrate all savings that can be attributed to certain technologies. To create the right incentives for innovation, only those savings that are not captured by the standard test cycle should be taken into account for the calculation of the total CO_2 savings.

(9) In demonstrating the CO_2 savings, a comparison should be made between the same vehicles with and without the eco-innovation. The testing methodology should provide verifiable, repeatable and comparable measurements. In order to ensure a level playing field and, in the absence of an agreed and more realistic driving cycle, the driving patterns in the New European Driving Cycle as referred to in Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information ([1]) should be used as a common reference. The testing methodology should be based on measurements on a chassis dynamometer or on modelling or simulation where such methodologies would provide better and more accurate results.

(10) Guidelines on the preparation of the application and the testing methodologies should be provided by the Commission and be regularly updated to take into account the experience gained from assessing different applications.

(11) According to Regulation (EC) No 443/2009, the application must be accompanied by a verification report provided by an independent and certified body. That body should be a technical service of category A or B as referred to in Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles ([2]). However, in order to ensure the independence of the body, technical services designated in accordance with Article 41(6) of that Directive should not be considered an independent and certified body within the meaning of this Regulation. The body should, together with the verification report, provide relevant evidence of its independence from the applicant.

(12) In order to ensure efficient registration and monitoring of the specific savings for individual vehicles, savings should be certified as part of the type approval of a vehicle and the total savings should be entered into the certificate of conformity in accordance with Directive 2007/46/EC.

([1]) OJ L 199, 28.7.2008, p. 1.
([2]) OJ L 263, 9.10.2007, p. 1.

(13) The Commission should have the possibility to verify on an ad hoc-basis the certified total savings for individual vehicles. Where it is evident that the certified savings are inconsistent with the level of savings resulting from the decision to approve a technology as an eco-innovation, the Commission should be able to disregard the certified CO_2 savings for the calculation of the average specific CO_2 emissions. The manufacturer should, however, be given a limited time period during which it may demonstrate that the certified values are accurate.

(14) In order to ensure a transparent application procedure, summary information should be available to the public on the applications for approval of innovative technologies and the testing methodologies. Once approved, the testing methodologies should be publicly accessible. The exceptions to the right to public access to documents set out in Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ([3]) should apply as appropriate.

(15) According to Article 13(3) of Regulation (EC) No 443/2009, innovative technologies may no longer be approved under the procedure set out in that Regulation from the date of application of a revised procedure for the measurement of CO_2 emissions. In order to ensure an appropriate phasing out of the eco-innovation credits approved pursuant to this Regulation, this Regulation should be reviewed not later than in 2015.

(16) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation sets out the procedure to be followed for the application for, and assessment, approval and certification of, innovative technologies that reduce emissions of CO_2 from passenger cars pursuant to Article 12 of Regulation (EC) No 443/2009.

Article 2

Scope

1. Any technology falling within the scope of the following measures covered by the integrated approach referred to in Article 1 of Regulation (EC) No 443/2009 shall not be considered as innovative technologies:

(a) efficiency improvements for air-conditioning systems;

([3]) OJ L 145, 31.5.2001, p. 43.

(b) tyre pressure monitoring systems falling within the scope of Regulation (EC) No 661/2009;

(c) tyre rolling resistance falling within the scope of Regulations (EC) No 661/2009 and (EC) No 1222/2009;

(d) gear shift indicators falling within the scope of Regulation (EC) No 661/2009;

(e) use of bio fuels.

2. An application may be made under this Regulation in respect of a technology, provided that the following conditions are met:

(a) it had been fitted in 3 % or less of all new passenger cars registered in 2009;

(b) it relates to items intrinsic to the efficient operation of the vehicle and is compatible with Directive 2007/46/EC.

Article 3

Definitions

In addition to the definitions set out in Articles 2 and 3 of Regulation (EC) No 443/2009, the following definitions shall apply:

(a) 'innovative technology' means a technology or a combination of technologies with similar technical features and characteristics where the CO_2 savings can be demonstrated using one testing methodology and where each of the individual technologies forming the combination falls within the scope specified in Article 2;

(b) 'supplier' means the manufacturer of an innovative technology responsible for ensuring conformity of production or its authorised representative in the Union or the importer;

(c) 'applicant' means the manufacturer or supplier submitting an application for the approval of an innovative technology as an eco-innovation;

(d) 'eco-innovation' means an innovative technology accompanied by a testing methodology that has been approved by the Commission in accordance with this Regulation;

(e) 'independent and certified body' means a category A or B technical service referred to in points (a) and (b) of Article 41(3) of Directive 2007/46/EC meeting the requirements set out in Article 42 of that Directive, with the exception of technical services designated in accordance with Article 41(6) of that Directive.

Article 4

Application

1. An application for the approval of an innovative technology as an eco-innovation shall be submitted to the Commission in writing. The application and all supporting documentation shall also be submitted by electronic mail or electronic data carrier or uploaded in a server managed by the Commission. The written application shall list the supporting documentation.

2. An application shall include the following:

(a) contact details of the applicant;

(b) a description of the innovative technology and the way it is fitted on a vehicle, including evidence that the technology falls within the scope specified in Article 2;

(c) a summary description of the innovative technology, including details supporting that the conditions provided for in Article 2(2) are met, and of the testing methodology referred to in point (e) of this paragraph to be made public upon submission of the application to the Commission;

(d) an estimated indication of the individual vehicles that may be, or are intended to be, fitted with the innovative technology, and the estimated reductions of CO_2 emissions for those vehicles from the innovative technology;

(e) a methodology to be used for demonstrating the CO_2 emissions reductions of the innovative technology, or where such methodology has already been approved by the Commission, a reference to the approved methodology;

(f) evidence demonstrating that:

(i) the emissions reduction achieved by the innovative technology meets the threshold specified in Article 9(1), taking into account any deterioration over time of the technology;

(ii) the innovative technology is not covered by the standard test cycle CO_2 measurement referred to in point (c) of Article 12(2) of Regulation (EC) No 443/2009 as specified in Article 9(2) of this Regulation;

(iii) the applicant is accountable for the CO_2 emissions reduction of the innovative technology as specified in Article 9(3);

(g) a verification report from an independent and certified body as specified in Article 7.

Article 5

Baseline vehicle and eco-innovation vehicle

1. For the purpose of the demonstration of CO_2 emissions referred to in Article 8, the applicant shall designate:

(a) an eco-innovation vehicle that shall be fitted with the innovative technology;

(b) a baseline vehicle that shall not be fitted with the innovative technology but that is in all other aspects identical to the eco-innovation vehicle.

2. If the applicant considers that the information referred to in Articles 8 and 9 can be demonstrated without the use of a baseline vehicle and an eco-innovation vehicle as referred to in paragraph 1 of this Article, the application shall include the necessary details justifying that conclusion and a methodology providing equivalent results.

Article 6

Testing methodology

1. The testing methodology referred to in point (e) of Article 4(2) shall provide results that are verifiable, repeatable and comparable. It shall be capable of demonstrating in a realistic manner the CO_2 emissions benefits of the innovative technology with strong statistical significance and, where relevant, take account of the interaction with other eco-innovations.

2. The Commission shall publish guidance on the preparation of testing methodologies for different potential innovative technologies meeting the criteria in paragraph 1.

Article 7

Verification report

1. The verification report referred to in point (g) of Article 4(2) shall be established by an independent and certified body that is not part of the applicant or otherwise connected to it.

2. For the purposes of the verification report, the independent and certified body shall:

(a) verify that the eligibility criteria specified in Article 2(2) are met;

(b) verify that the information provided in accordance with point (f) of Article 4(2) meets the criteria set out in Article 9;

(c) verify that the testing methodology referred to in point (e) of Article 4(2) is appropriate for certifying the CO_2 savings from the innovative technology for the relevant vehicles referred to in point (d) of Article 4(2), and meets the minimum requirements specified in Article 6(1);

(d) verify that the innovative technology is compatible with relevant requirements specified for the type approval of the vehicle;

(e) declare that it meets the requirement specified in paragraph 1 of this Article.

3. For the purposes of the certification of the CO_2 savings in accordance with Article 11, the independent and certified body shall, at the request of the manufacturer, draw up a report on the interaction between several eco-innovations fitted to one vehicle type, variant or version.

The report shall specify the CO_2 savings from the different eco-innovations taking into account the impact of the interaction.

Article 8

Demonstration of CO_2 emissions

1. The following CO_2 emissions shall be demonstrated for a number of vehicles representative of the individual vehicles indicated in accordance with point (d) of Article 4(2):

(a) the CO_2 emissions from the baseline vehicle and from the eco-innovation vehicle with the innovative technology in operation resulting from the application of the methodology referred to in point (e) of Article 4(2);

(b) the CO_2 emissions from the baseline vehicle and from the eco-innovation vehicle with the innovative technology in operation resulting from the application of the standard test cycle referred to in point (c) of Article 12(2) of Regulation (EC) No 443/2009.

The demonstration of the CO_2 emissions in accordance with points (a) and (b) of the first subparagraph shall be carried out under testing conditions that are identical for all tests.

2. The total savings for an individual vehicle shall be the difference between the emissions demonstrated in accordance with point (a) of the first subparagraph of paragraph 1.

Where there is a difference between the emissions demonstrated in accordance with point (b) of the first subparagraph of paragraph 1, that difference shall be subtracted from the total savings demonstrated in accordance with point (a) of the first subparagraph of paragraph 1.

Article 9

Eligibility criteria

1. The minimum reduction achieved by the innovative technology shall be 1 g CO_2/km. That threshold shall be considered met where the total savings for the innovative technology demonstrated in accordance with Article 8(2) are 1 g CO_2/km or more.

2. Where the total savings of an innovative technology do not include any savings demonstrated under the standard test cycle in accordance with Article 8(2), the innovative technology shall be considered not to be covered by the standard test cycle.

3. The technical description of the innovative technology referred to in point (b) of Article 4(2) shall provide the necessary details for demonstrating that the CO_2 reducing performance of the technology is not dependant on settings or choices that are outside the control of the applicant.

Where the description is based on assumptions, those assumptions shall be verifiable and based on strong and independent statistical evidence supporting them and their applicability across the Union.

Article 10

Assessment of an eco-innovation application

1. On receipt of an application, the Commission shall make public the summary description of the innovative technology and the testing methodology referred to in point (c) of Article 4(2).

2. The Commission shall assess the application and, within 9 months from receipt of a complete application, it shall approve the innovative technology as an eco-innovation together with the testing methodology, unless objections are raised in respect of the eligibility of the technology or the appropriateness of the testing methodology.

The decision to approve the innovative technology as an eco-innovation shall specify the information required for the certification of the CO_2 savings in accordance with Article 11 of this Regulation, subject to the application of the exceptions to the right to public access to documents specified in Regulation (EC) No 1049/2001.

3. The Commission may require adjustments to the proposed testing methodology or require the use of another approved testing methodology than the one proposed by the applicant. The applicant shall be consulted on the proposed adjustment or the choice of testing methodology.

4. The assessment period may be extended by 5 months where the Commission finds that, because of the complexity of the innovative technology and the accompanying testing methodology or because of the size and contents of the application, the application cannot be appropriately assessed within the 9-month assessment period.

The Commission shall within 40 days of receipt of the application notify the applicant if the assessment period is to be extended.

Article 11

Certification of CO_2 savings from eco-innovations

1. A manufacturer wishing to benefit from a reduction of its average specific CO_2 emissions for the purpose of meeting its specific emissions target by means of the CO_2 savings from an eco-innovation shall apply to an approval authority within the meaning of Directive 2007/46/EC for an EC type-approval certificate of the vehicle fitted with the eco-innovation. The application for a certificate shall, in addition to the documents providing the necessary information specified in Article 6 of Directive 2007/46/EC, refer to the decision by the Commission to approve an eco-innovation in accordance with Article 10(2) of this Regulation.

2. The certified CO_2 savings of the eco-innovation demonstrated in accordance with Article 8 of this Regulation shall be specified separately in both the type approval documentation and the certificate of conformity in accordance with Directive 2007/46/EC, on the basis of tests carried out by technical services in accordance with Article 11 of that Directive, using the approved testing methodology.

Where the CO_2 savings of an eco-innovation for a specific type, variant or version are below the threshold specified in Article 9(1), the savings shall not be certified.

3. Where the vehicle is fitted with more than one eco-innovation, the CO_2 savings shall be demonstrated separately for each eco-innovation in accordance with the procedure set out in Article 8(1). The sum of the resulting savings determined in accordance with Article 8(2) for each eco-innovation shall provide the total CO_2 savings for the purpose of the certification of that vehicle.

4. Where interaction between several eco-innovations fitted to one vehicle cannot be ruled out because they are clearly of a different nature, the manufacturer shall indicate this in the application to the approval authority and shall provide a report from the independent and certified body on the impact of the interaction on the savings of the eco-innovations in the vehicle as referred to in Article 7(3).

Where, due to that interaction, the total savings are less than 1 g CO_2/km times the number of eco-innovations only those eco-innovation savings that meet the threshold set out in Article 9(1) shall be taken into account for calculating the total savings in accordance with paragraph 3 of this Article.

Article 12

Review of certifications

1. The Commission shall ensure that the certifications and the CO_2 savings attributed to individual vehicles are verified on an ad hoc-basis.

Where it finds that there is a difference between the certified CO_2 savings and the savings it has verified using the relevant testing methodology or methodologies, the Commission shall notify the manufacturer of its findings.

The manufacturer may within 60 days of receipt of the notification provide the Commission with evidence demonstrating the accuracy of the certified CO_2 savings. At the request of the Commission the report on the interaction of different eco-innovations referred to in Article 7(3) shall be provided.

2. Where the evidence referred to in paragraph 1 is not provided within the indicated time period, or it finds that the evidence provided is not satisfactory, the Commission may decide not to take the certified CO_2 savings into account for the calculation of the average specific emissions of that manufacturer for the following calendar year.

3. A manufacturer for which the certified CO_2 savings are no longer taken into account may apply for a new certification of the vehicles concerned in accordance with the procedure laid down in Article 11.

Article 13

Disclosure of information

An applicant requesting that information submitted under this Regulation be treated as confidential shall justify why any of the exceptions referred to in Article 4 of Regulation (EC) No 1049/2001 apply.

Article 14

Review

This Regulation and the eco-innovations approved pursuant to this Regulation shall be reviewed by 31 December 2015 at the latest.

Article 15

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 25 July 2011.

For the Commission
The President
José Manuel BARROSO

COMMISSION IMPLEMENTING REGULATION (EU) No 726/2011

of 25 July 2011

amending Implementing Regulation (EU) No 543/2011 as regards the trigger levels for additional duties on apples

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products ('Single CMO' Regulation) [1], and in particular Article 143(b) in conjunction with Article 4 thereof,

Whereas:

(1) Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors [2] provides for surveillance of imports of the products listed in Annex XVII thereto. That surveillance is to be carried out in accordance with the rules laid down in Article 308d of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [3].

(2) For the purposes of applying Article 5(4) of the Agreement on Agriculture [4] concluded as part of the Uruguay Round of multilateral trade negotiations and in the light of the latest data available for 2008, 2009 and 2010, the trigger levels for additional duties on apples should be adjusted.

(3) Implementing Regulation (EU) No 543/2011 should therefore be amended accordingly.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XVIII to Implementing Regulation (EC) No 543/2011 is replaced by the text set out in the Annex to this Regulation.

Article 2

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

It shall apply from 1 September 2011.

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

Done at Brussels, 25 July 2011.

For the Commission
The President
José Manuel BARROSO

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 157, 15.6.2011, p. 1.
[3] OJ L 253, 11.10.1993, p. 1.
[4] OJ L 336, 23.12.1994, p. 22.

ANNEX

'ANNEX XVIII

ADDITIONAL IMPORT DUTIES: TITLE IV, CHAPTER I, SECTION 2

Without prejudice to the rules governing the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they stand at the time of the adoption of this Regulation.

Order number	CN code	Description	Period of application	Trigger level (tonnes)
78.0015	0702 00 00	Tomatoes	From 1 October to 31 May	481 625
78.0020			From 1 June to 30 September	44 251
78.0065	0707 00 05	Cucumbers	From 1 May to 31 October	31 289
78.0075			1 November to 30 April	26 583
78.0085	0709 90 80	Globe artichokes	From 1 November to 30 June	17 258
78.0100	0709 90 70	Courgettes	From 1 January to 31 December	57 955
78.0110	0805 10 20	Oranges	From 1 December to 31 May	368 535
78.0120	0805 20 10	Clementines	From 1 November to end of February	175 110
78.0130	0805 20 30 0805 20 50 0805 20 70 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	From 1 November to end of February	115 625
78.0155	0805 50 10	Lemons	From 1 June to 31 December	346 366
78.0160			From 1 January to 31 May	88 090
78.0170	0806 10 10	Table grapes	From 21 July to 20 November	80 588
78.0175	0808 10 80	Apples	From 1 January to 31 August	700 556
78.0180			From 1 September to 31 December	65 039
78.0220	0808 20 50	Pears	1 January to 30 April	229 646
78.0235			From 1 July to 31 December	35 541
78.0250	0809 10 00	Apricots	From 1 June to 31 July	5 794
78.0265	0809 20 95	Cherries, other than sour cherries	From 21 May to 10 August	30 783
78.0270	0809 30	Peaches, including nectarines	From 11 June to 30 September	5 613
78.0280	0809 40 05	Plums	From 11 June to 30 September	10 293'

COMMISSION IMPLEMENTING REGULATION (EU) No 727/2011

of 25 July 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) [1],

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

Whereas:

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 26 July 2011.

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

Done at Brussels, 25 July 2011.

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

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

ANNEX

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

(EUR/100 kg)

CN code	Third country code (1)	Standard import value
0702 00 00	MK	41,0
	ZZ	41,0
0707 00 05	TR	95,4
	ZZ	95,4
0709 90 70	TR	110,8
	ZZ	110,8
0805 50 10	AR	70,1
	TR	62,0
	UY	62,6
	ZA	95,3
	ZZ	72,5
0806 10 10	CL	54,3
	EG	164,4
	MA	124,1
	TN	223,3
	TR	177,7
	ZA	62,8
	ZZ	134,4
0808 10 80	AR	156,7
	BR	86,3
	CL	91,7
	CN	62,9
	NZ	114,6
	US	89,9
	ZA	88,2
	ZZ	98,6
0808 20 50	AR	80,0
	CL	90,5
	CN	56,7
	NZ	148,5
	ZA	103,9
	ZZ	95,9
0809 10 00	TR	183,9
	ZZ	183,9
0809 20 95	TR	277,9
	ZZ	277,9
0809 30	TR	170,0
	ZZ	170,0
0809 40 05	BA	51,4
	EC	64,7
	XS	66,1
	ZZ	60,7

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

COMMISSION IMPLEMENTING REGULATION (EU) No 728/2011

of 25 July 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) [1],

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 [2], 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 [3]. These prices and duties have been last amended by Commission Implementing Regulation (EU) No 722/2011 [4].

(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 26 July 2011.

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

Done at Brussels, 25 July 2011.

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

[1] OJ L 299, 16.11.2007, p. 1.
[2] OJ L 178, 1.7.2006, p. 24.
[3] OJ L 259, 1.10.2010, p. 3.
[4] OJ L 193, 23.7.2011, p. 24.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 26 July 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 (1)	51,31	0,00
1701 11 90 (1)	51,31	0,00
1701 12 10 (1)	51,31	0,00
1701 12 90 (1)	51,31	0,00
1701 91 00 (2)	56,48	0,53
1701 99 10 (2)	56,48	0,00
1701 99 90 (2)	56,48	0,00
1702 90 95 (3)	0,56	0,19

(1) For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.
(2) For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.
(3) Per 1 % sucrose content.

DECISIONS

COUNCIL DECISION

of 18 July 2011

appointing Judges to the European Union Civil Service Tribunal

(2011/459/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the fourth paragraph of Article 257 thereof,

Whereas:

(1) The terms of office of Mr Stéphane GERVASONI, Mr Paul J. MAHONEY and Mr Harissios TAGARAS, Judges of the European Union Civil Service Tribunal (hereinafter referred to as 'the Civil Service Tribunal') expire on 30 September 2011.

(2) A public call for applications [1] was issued with a view to the appointment of three Judges to the Civil Service Tribunal for a period of 6 years.

(3) The Committee set up by Article 3(3) of Annex I to the Protocol (No 3) on the Statute of the Court of Justice of the European Union met on 13 and 14 January, 3 and 4 March and 22 March 2011. Following its discussions, it delivered an opinion on the candidates' suitability to perform the duties of a Judge of the Civil Service Tribunal to which it appended a list of candidates having the most appropriate high-level experience.

(4) Accordingly it is appropriate to appoint three of the persons included on that list as Judges of the Civil Service Tribunal, for the period from 1 October 2011 to 30 September 2017, ensuring a balanced composition of the Civil Service Tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented,

HAS ADOPTED THIS DECISION:

Article 1

The following are hereby appointed Judges to the European Union Civil Service Tribunal for the period from 1 October 2011 to 30 September 2017:

— Mr René BARENTS,

— Mr Kieran BRADLEY,

— Mr Ezio PERILLO.

Article 2

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

Done at Brussels, 18 July 2011.

For the Council
The President
M. DOWGIELEWICZ

[1] OJ C 163, 23.6.2010, p. 13.

COUNCIL DECISION

of 19 July 2011

appointing a Swedish alternate member of the Committee of the Regions

(2011/460/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the Swedish Government,

Whereas:

(1) On 22 December 2009 and on 18 January 2010, the Council adopted Decisions 2009/1014/EU [1] and 2010/29/EU [2] appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015.

(2) An alternate member's seat has become vacant following the end of the term of office of Ms Carin JÄMTIN,

HAS ADOPTED THIS DECISION:

Article 1

The following is hereby appointed as alternate member of the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2015:

— Mr Roger MOGERT, Ledamot i kommunfullmäktige, Stockholms kommun.

Article 2

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

Done at Brussels, 19 July 2011.

For the Council
The President
M. SAWICKI

[1] OJ L 348, 29.12.2009, p. 22.
[2] OJ L 12, 19.1.2010, p. 11.

COUNCIL DECISION

of 19 July 2011

appointing a Cypriot member and a Cypriot alternate member of the Committee of the Regions

(2011/461/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the Cypriot Government,

Whereas:

(1) On 22 December 2009 and on 18 January 2010, the Council adopted Decisions 2009/1014/EU [1] and 2010/29/EU [2] appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015.

(2) A member's seat on the Committee of the Regions has become vacant following the end of the term of office of Mr Christos MESSIS. An alternate member's seat has become vacant following the appointment of Mr Charalambos PITTAS as a member of the Committee of the Regions,

HAS ADOPTED THIS DECISION:

Article 1

The following are hereby appointed to the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2015:

(a) as member:

— Mr Charalambos PITTAS, *Δήμαρχος Μόρφου*

and

(b) as alternate member:

— Mr Andreas HADZILOIZOU, *Δήμαρχος Αγίου Δομετίου*.

Article 2

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

Done at Brussels, 19 July 2011.

For the Council
The President
M. SAWICKI

[1] OJ L 348, 29.12.2009, p. 22.
[2] OJ L 12, 19.1.2010, p. 11.

COMMISSION IMPLEMENTING DECISION

of 25 July 2011

rejecting two applications for entry in the register of protected designations of origin and protected geographical indications provided for in Council Regulation (EC) No 510/2006 (Eilenburger Sachsenquelle (PDO)), (Eilenburger Sanusquelle (PDO))

(notified under document C(2011) 5251)

(Only the German text is authentic)

(2011/462/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs [1], and in particular the second subparagraph of Article 6(2) thereof,

Whereas:

(1) On 5 November 1999, Germany notified to the Commission two applications for registration under Article 5 of Council Regulation (EEC) No 2081/92 [2] concerning the two names of mineral waters listed in the Annex. However, these names are not included in the list of natural mineral waters recognised by Member States [3] in accordance with Article 1 of Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters [4]. Consequently, as these names cannot be recognised in the internal market as marketable mineral waters, they should not be registered.

(2) In the light of the above, the two applications for registration of the designations listed in the Annex to this Decision should be rejected.

(3) The measures provided for in this Decision comply with the opinion of the Standing Committee on Protected Geographical Indications and Protected Designations of Origin,

HAS ADOPTED THIS DECISION:

Article 1

The applications for registration of the designations listed in the Annex to this Decision are rejected.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 25 July 2011.

For the Commission

Dacian CIOLOŞ

Member of the Commission

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[1] OJ L 93, 31.3.2006, p. 12.
[2] OJ L 208, 24.7.1992, p. 1.
[3] OJ C 54, 7.3.2009, p. 7.
[4] OJ L 164, 26.6.2009, p. 45.

ANNEX

Natural mineral waters and spring waters

GERMANY

Eilenburger Sachsenquelle

Eilenburger Sanusquelle

COMMISSION IMPLEMENTING DECISION

of 25 July 2011

relating to the clearance of the accounts presented by Bulgaria and Romania for the expenditure financed under the special accession programme for agriculture and rural development (Sapard) in 2008

(notified under document C(2011) 5183)

(Only the Bulgarian and the Romanian texts are authentic)

(2011/463/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period [1],

Having regard to Commission Regulation (EC) No 2222/2000 of 7 June 2000 laying down financial rules for the application of Council Regulation (EC) No 1268/1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period [2], and in particular Article 13 thereof,

Having regard to the Multiannual Financing Agreement concluded with Bulgaria on 18 December 2000 and in particular Article 11 of Section A to the Annex thereof,

Having regard to the Multiannual Financing Agreement concluded with Romania on 2 February 2001 and in particular Article 11 of Section A to the Annex thereof,

Having regard to Commission Regulation (EC) No 248/2007 of 8 March 2007 on measures concerning the Multi-annual Financing Agreements and the Annual Financing Agreements concluded under the Sapard programme and the transition from Sapard to rural development [3], in conjunction with the Multiannual Financing Agreements as referred to in Annex II, point 1 of that Regulation, and in particular Article 11 of Section A to the Annex thereof,

After consulting the Committee on the Agricultural Funds,

Whereas:

(1) The Commission, acting on behalf of the European Union, concluded multiannual financing agreements (MAFAs) laying down the technical, legal and administrative framework for the execution of the Special Accession Programme for Agriculture and Rural Development (Sapard) with Bulgaria and Romania.

(2) Article 11 of Section A of the Annex to the MAFAs provides for the adoption of a clearance of accounts Decision by the Commission. That provision continues to apply to Bulgaria and Romania, by virtue of Regulation (EC) No 248/2007.

(3) The time limits granted to the recipient countries for the submission to the Commission of the requisite documents have expired.

(4) Due, in the case of Bulgaria, to the late submission of the annual accounts in accordance with Article 5(2) of MAFA, and further to their invalidation by the National Authorising Officer (NAO) due to significant deficiencies identified in the control mechanisms for public measures, and pending additional work still expected from the certifying body, and, in the case of Romania, due to the over-passing of the submission deadline for presenting the annual accounts, and pending the review of supplementary information which had been requested from this country, the Commission decided, by its Decision C(2009) 7496 of 30 September 2009, not to clear the accounts of the Sapard Agencies situated on the territory of Bulgaria and of Romania concerning expenditure effected for the financial year 2008.

(5) The expected information from Bulgaria and Romania has in the meantime been submitted enabling the Commission to gain additional assurance. Based on the additional checks carried out, the Commission is in the position to take a decision on the completeness, accuracy and veracity of the accounts submitted by the relevant Sapard authorities in Bulgaria and Romania.

(6) This Decision is adopted on the basis of accounting information. It does not prejudice the possibility for the Commission to decide subsequently to exclude from EU financing expenditure not incurred in accordance with Regulation (EC) No 2222/2000,

[1] OJ L 161, 26.6.1999, p. 87.
[2] OJ L 253, 7.10.2000, p. 5.
[3] OJ L 69, 9.3.2007, p. 5.

HAS ADOPTED THIS DECISION:

Article 1

The accounts of the Sapard Agencies, situated on the territory of Bulgaria and Romania, which concern expenditure financed by the general budget of the European Union in 2008 are hereby cleared.

Article 2

The expenditure and funding received from the EU for the financial year 2008, as stated on 31 December 2008, and the assets held by these beneficiary countries on behalf of the EU on 31 December 2008, to be cleared under this Decision, are laid down in the Annex.

Article 3

This Decision is addressed to the Republic of Bulgaria and Romania.

Done at Brussels, 25 July 2011.

For the Commission

Dacian CIOLOȘ

Member of the Commission

ANNEX

Expenditure and funding received from the EU in respect of the financial year 2008 (all amounts in euro) as stated at 31 December 2008

Beneficiary country	Declaration D2 EU contribution Financial year 2008	EU contribution cleared with this decision	EU contribution disjoined with this decision	Total b + c	Adjustments	Funding received from the EU (D1) (1)	Difference to be recovered or paid Financial year 2008 (4)
	a	b	c	d	e	f	g = d – e – f
Bulgaria	37 922 598,86	37 922 598,86	0,00	37 922 598,86	– 41 835,28 (2)	37 964 434,08	0,06
Romania	187 238 127,96	187 238 127,96	0,00	187 238 127,96	1 052 775,38 (3)	186 185 352,56	0,02

(1) Reimbursements made by the EC during 2008 and 2009, for expenditure declared in 2008.
(2) Expenditure deducted at the initiative of the Bulgarian NAO, from the D2 declaration for 2008 and the D1 38 for 2009; it corresponds to a project followed by OLAF and for which an irregularity was found in April 2009.
(3) The amount of EUR 1 052 775,38 is made up of EUR 1 049 233,75 representing adjustments made by the EC based on the ineligible expenditure declared by the Romanian authorities (D1 37) following their reverification performed in the frame of the implementation of the Action Plan, and EUR 3 541,63 representing corrections made by the Romanian authorities through the D1 declarations in 2008 (D1 34 and D1 35).
(4) These differences are due to roundings.

Assets held by the beneficiary countries on behalf of the EU (all amounts in euro) on 31 December 2008

Beneficiary country	EURO ACCOUNT balance cleared with this decision	EURO ACCOUNT balance disjoined with this decision	DEBTORS cleared with this decision (1)	DEBTORS disjoined with this decision
	h		i	
Bulgaria	6 444,77	0,00	13 010 656,38	0,00
Romania	1 435 029,16	0,00	4 532 369,26	0,00

(1) The amounts do not take into account the interests accrued on debts.

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