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Price: EUR 3

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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.

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

## II

*(Non-legislative acts)*

## REGULATIONS

## COUNCIL IMPLEMENTING REGULATION (EU) No 831/2011

of 16 August 2011

**imposing a definitive anti-dumping duty on imports of barium carbonate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009**

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 <sup>(1)</sup> ('the basic Regulation') and in particular Articles 9(4) and 11(2), (5) and (6) thereof,

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

Whereas:

## A. PROCEDURE

## 1. Measures in force

- (1) By Regulation (EC) No 1175/2005 <sup>(2)</sup> the Council, imposed a definitive anti-dumping duty on imports of barium carbonate originating in the People's Republic of China ('PRC'). The rate of the definitive specific duty ranged from EUR 6,3 to EUR 56,4 per tonne.

## 2. Request for an expiry review

- (2) Following the publication, in March 2010, of a notice of impending expiry of the anti-dumping measures applicable to imports of barium carbonate originating in the PRC <sup>(3)</sup>, the Commission received on 19 April 2010 a request for an expiry review pursuant to Article 11(2) of the basic Regulation.
- (3) The expiry review request was lodged by Solvay & CPC Barium Strontium GmbH & Co. KG ('the applicant'), the

sole producer of barium carbonate in the European Union, representing 100 % of the total Union production of barium carbonate. The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and continuation of injury to the Union industry.

- (4) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation, the Commission published a notice of initiation in the *Official Journal of the European Union* <sup>(4)</sup> ('notice of initiation').

## 3. Investigation

## 3.1. Review investigation period and period considered

- (5) The investigation regarding the continuation or recurrence of dumping and injury covered the period from 1 July 2009 to 30 June 2010 ('Review investigation period' or 'RIP').
- (6) The examination of the trends relevant for the assessment of a likelihood of a continuation of injury covered the period from 1 January 2007 up to the end of the RIP ('period considered').

## 3.2. Parties concerned by the investigation

- (7) The Commission officially advised the applicant, the exporting producers in the PRC, importers/traders, users in the Union known to be concerned and their associations, producers in the analogue country as well as the authorities of the PRC of the initiation of the review.

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

<sup>(2)</sup> OJ L 189, 21.7.2005, p. 15.

<sup>(3)</sup> OJ C 78, 27.3.2010, p. 4.

<sup>(4)</sup> OJ C 192, 16.7.2010, p. 4.

- (8) The Commission also gave interested parties the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (9) In view of the apparently large number of Chinese exporting producers listed in the request, sampling was envisaged in the notice of initiation for the determination of dumping and the likelihood of continuation of dumping, in accordance with Article 17 of the basic Regulation.
- (10) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the period 1 July 2009 to 30 June 2010.
- (11) The Commission received replies from only three companies or company groups in the PRC and therefore it was decided that sampling was not necessary in respect of Chinese exporting producers.
- (12) The Commission sent questionnaires to all parties known to be concerned and to those who requested a questionnaire within the time limit set out in the notice of initiation.
- (13) Replies to the questionnaire were received from the applicant and its related agent, nine users, four importers, two exporting producers in the PRC and two producers in possible analogue countries. One of the Chinese exporting producers that replied to the sampling exercise decided not to cooperate further in the proceeding.
- (14) The Commission sought and verified all the information it deemed necessary for the purpose of the determination of the likelihood of continuation of dumping and injury and for the determination of the Union interest. Verification visits were carried out at the premises of the following companies:

(a) *Applicant*

- Solvay & CPC Barium Strontium GmbH & Co. KG, Hannover and its related company Solvay Bario e Derivati SpA, Massa

(b) *Exporting producers in the PRC*

- Zaozhuang Yongli Chemical Co., Ltd, Shangdong Province
- Guizhou Red Star Developing Import & Export Co., Ltd, Guizhou Province

(c) *Producer in the analogue country (India)*

- Solvay Vishnu Barium Private Limited, Hyderabad

(d) *Importers*

- Norkem Limited, Knutsford, United Kingdom
- L'Aprochimide Srl, Muggio, Italy

(e) *Users*

- Technische Glaswerke Ilmenau GmbH, Ilmenau, Germany

## B. PRODUCT CONCERNED AND LIKE PRODUCT

### 1. Product concerned

- (15) The product concerned is the same as that in the previous investigation and is defined as follows: barium carbonate with a strontium content of more than 0,07 % by weight and a sulphur content of more than 0,0015 % by weight, whether in powder, pressed granular or calcined granular form, originating in the PRC, currently falling within CN code ex 2836 60 00.
- (16) Barium carbonate is used primarily in the brick and tile industry, the ceramics sector and in the production of ferrite. It was previously used in the production of cathode ray television tubes (CRT) but this application has disappeared in the Union following their replacement by LCD- and plasma-screens.

### 2. Like product

- (17) As in the original investigation, this procedure has shown that barium carbonate produced in the PRC and exported to the Union, as well as the barium carbonate produced and sold on the domestic market of the analogue country (India) and that manufactured and sold in the Union by the applicant have the same basic physical and chemical characteristics and the same basic uses.
- (18) Therefore these products are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

## C. DUMPING

- (19) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation of dumping.

### 1. General

- (20) Of the 16 known Chinese exporting producers contacted at the initiation of the expiry review, three replied to the sampling exercise but only two fully cooperated with the Commission by replying to a full questionnaire.

## 2. Analogue country

- (21) Since the PRC is an economy in transition and in accordance with Article 2(7)(a) of the basic Regulation, normal value for exporting producers not granted market economy treatment ('MET') has to be determined on the basis of the price or constructed value in an appropriate market economy third country ('analogue country').
- (22) The USA was used as analogue country in the original investigation and proposed in the present investigation for the purposes of establishing normal value. However, it was considered necessary to verify if this country was still appropriate for the present expiry review. Letters were sent to all known producers of barium carbonate worldwide, i.e. in Brazil, India, Japan and the USA. Two replies were received, one from a producer in the USA and another from a producer in India.
- (23) After a careful analysis of criteria such as total production, number of producers, competition in the market, total imports, anti-dumping duties and customs duties in both the American and the Indian domestic markets it was decided to select India as analogue country. The choice of India, in accordance with Article 2(7) of the basic Regulation, was considered to be more appropriate than USA due to its bigger market size, the larger volumes of imports and the stronger competition in its domestic market for this product. No comments or objections were received from any interested party in that respect. As a result, the normal value for exporting producers not granted MET was based on the data provided by the producer in India.

## 3. Dumping of imports during the RIP

### 3.1. Normal value

- (24) For the company granted MET in the original investigation, in accordance with Article 2(2) of the basic Regulation, the Commission examined whether the domestic sales of barium carbonate to independent customers were representative during the RIP, i.e. whether the total volume of such sales represented at least 5 % of their export sales of the product concerned to the Union. The investigation showed that these sales were not representative and therefore the normal value had to be constructed. The established normal value was based on the total cost of manufacturing plus the company's selling, general and administrative costs ('SGA costs') and profit achieved on domestic sales made in the ordinary course of trade of the like product.
- (25) For the company that was not granted MET in the original investigation, pursuant to Article 2(7)(a) of the basic Regulation, normal value was established on the

basis of the information received from the cooperating producer in the analogue country.

- (26) It was first established whether the total domestic sales of the like product to independent customers were representative in accordance with Article 2(2) of the basic Regulation, i.e. whether they accounted for 5 % or more of the total sales volume of the product concerned exported to the Union. The domestic sales of the cooperating producer in India were considered sufficiently representative during the RIP.
- (27) The Commission subsequently examined whether the domestic sales of the like product could be regarded as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing for the like product sold on the Indian market the proportion of profitable domestic sales to independent customers during the RIP. Since there were no profitable sales of the like product during the RIP, the normal value had to be constructed. The normal value was based on the total cost of manufacturing of the producer concerned plus a reasonable amount for SGA costs and a reasonable amount of profit in accordance with Article 2(6)(c) of the basic Regulation. The SGA costs and the profit added to the manufacturing costs of the like product used were in line with those used in the original investigation and amounted to 10,6 % for SGA costs and 7,2 % for profit. No information was provided showing that these amounts would not be reasonable nor that the profit level used would exceed the profit normally realised by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin.

### 3.2. Export price

- (28) All export sales to the Union of the cooperating exporting producers concerned were made directly to independent customers in the Union and therefore, the export price was established in accordance with Article 2(8) of the basic Regulation on the basis of the prices actually paid or payable.

### 3.3. Comparison

- (29) The comparison between normal value and export price was made on an ex-works basis.
- (30) For the purposes of ensuring a fair comparison between the normal value and the export price, and in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made with regard to certain differences in transport and commissions, which affected prices and price comparability.

### 3.4. Dumping margin

- (31) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export prices at the same level of trade.
- (32) For the company that was granted MET in the original investigation this comparison showed that the company continued dumping at an even higher level.
- (33) For the company that was not granted MET in the original investigation the comparison conducted in accordance with Article 2(11) of the basic Regulation showed significant dumping. This company represents 98 % of exports subject to the residual duty, the remaining 2 % of exporting producers that did not cooperate in the proceeding cannot influence the dumping margin found. In addition in view of their non-cooperation it is considered that they cannot dump at a lower level than the cooperating company.

### D. LIKELIHOOD OF CONTINUATION OF DUMPING

- (34) In accordance with Article 11(2) of the basic Regulation, it was examined whether it was likely that dumping would continue should measures be repealed.
- (35) With regard to the likelihood of continuation of dumping the development of production and production capacity in the PRC was examined as well as the likely development of export sales to the Union and to other third country markets.
- (36) According to the complaint, the PRC is by far the biggest producer worldwide of barium carbonate. In addition the PRC is also the biggest producer of Barite which is the main raw material for the production of the product concerned. The two cooperating companies alone have a production capacity of 331 000 tonnes per year which is around three times the Union's consumption in the RIP. In addition these two companies have a total spare capacity of 34 000 tonnes which is enough to supply half of the Union's consumption.
- (37) Three of the major worldwide producers of barium carbonate (the USA, India and Brazil) currently have anti-dumping measures on Chinese imports of the product concerned. It can be concluded that given the

significant spare production capacity in PRC and the dumping practices in several markets, should the measures be repealed, additional volumes would be directed to the Union market.

- (38) The fact that, despite the existence of anti-dumping measures on Chinese imports, the Chinese exporting producers have managed to export significant quantities to the Union in the RIP (at an average price of EUR 251 per tonne) and to increase their market share in the Union, shows the continued interest of the Chinese exporters in the Union market.
- (39) It is even more clear on the basis of the Chinese export statistics that the Union is an attractive market for the Chinese exporting producers since they achieved some of their highest export prices (albeit dumped) when exporting to the Union. According to the Chinese export statistics the average selling price to the Union during the RIP was 269 USD FOB while the average export price to India was 220 USD.
- (40) The Chinese export statistics showed that despite the end of the main application for barium carbonate (CRT's production) Chinese exports have increased worldwide from 130 000 tonnes in 2009 to 158 000 tonnes in 2010.
- (41) Should measures be repealed, it is expected that, in view of the huge spare production capacity in PRC, Chinese exports will very likely be directed to the Union. The fact that major markets around the world like the USA, India and Brazil are protected by high anti-dumping duties supports this conclusion.
- (42) The prices of these imports would likely continue to be at dumped prices as there is no indication that the exporters would change their pricing behaviour if measures were to be repealed.
- (43) It is therefore concluded that there is a likelihood of continuation of dumping.

### E. DEFINITION OF THE UNION INDUSTRY

- (44) The sole cooperating Union producer accounted for 100 % of the Union production of barium carbonate during the RIP. It is therefore deemed to constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.



## F. SITUATION OF THE UNION MARKET

### 1. Union consumption

Table 1

#### Union consumption

	2007	2008	2009	RIP
Consumption (in tonnes)	123 354	104 037	62 637	76 560
Index	100	84	51	62

Source: Verified questionnaire replies of the Union industry and Eurostat statistics.

- (45) Union consumption was based on the combined volume of sales by the Union industry in the Union and the volume of imports from third countries, based on Eurostat data.

- (46) On this basis and as shown in Table 1 above, Union consumption decreased significantly during the period considered, i.e. by 38 % which is mainly explained by the disappearance of the CRT manufacturing activity in the Union.

### 2. Volume, market share and prices of imports from the PRC

Table 2

#### Imports from the PRC in volume, market share and import price

	2007	2008	2009	RIP
Import volume (tonne)	76 306	64 573	37 341	48 720
Index	100	85	49	64
Market share	61,9 %	62,1 %	59,6 %	63,6 %
Index	100	100	96	103
CIF import price EUR per tonne	230	257	239	251
Index	100	112	104	109

Source: Eurostat statistics.

- (47) During the period considered the import volumes from the PRC decreased by 36 % while consumption in the Union decreased by 38 %. Despite the anti-dumping measures in place, and against the background of decreasing consumption, the Chinese market share increased by three percentage points over the period considered.

- (48) Average import prices from the PRC increased by 9 % over the period considered. The highest increase in prices occurred between 2007 and 2008 as prices dropped in 2009 before increasing again in the RIP.

- (49) The Union industry's average ex-works price was compared with the Chinese CIF average import prices at the Union frontier. These prices were derived from Eurostat figures and included post-importation costs, customs and anti-dumping duties. The comparison showed that Chinese import prices undercut the Union industry's sales price by 37,9 % during the RIP. Based on the above it was found that if measures had not been in place Chinese import prices would have undercut those of the Union industry by 44,1 %.

### 3. Volume and market share of imports from other third countries

- (50) Total import volumes of barium carbonate from third countries other than the PRC were insignificant and represented less than 1 % of the Union consumption over the period considered.

- (51) It should be noted that import prices from other third countries did not undercut Union prices in the RIP.

### 4. Economic situation of the Union industry

#### 4.1. Production, production capacity and capacity utilisation

- (52) It should be noted that since the Union industry consists in only one producer, data pertaining to production, capacity and utilisation had to be reported in the form of indexes.

Table 3

#### Union production, production capacity and capacity utilisation

Index	2007	2008	2009	RIP
Production	100	79	36	47
Production capacity	100	100	100	100
Capacity utilisation	100	79	36	47

Source: Verified questionnaire replies of the Union industry.

- (53) The Union industry's production decreased by 53 % over the period considered. It should be noted that the Union industry has adapted its production model since 2003 in

order to adequately meet the new market situation and the disappearance of the CRT-screen activity in the Union. As a consequence, production capacity was reduced by more than 50 % as the product under review is now produced in alternating campaigns on the same equipment as strontium carbonate.

- (54) The production capacity of the Union industry remained unchanged over the period considered. Capacity utilisation thus developed similarly to production volumes.

#### 4.2. Inventories

Table 4

##### Inventories

	2007	2008	2009	RIP
Index	100	97	41	41

Source: Verified questionnaire replies of the Union industry.

- (55) Stocks decreased by 59 % during the period considered. This decrease is due to reduced demand and the ability for the Union industry to adapt to the new market situation.

#### 4.3. Sales volume and prices

Table 5

##### Sales volumes, values and unit selling price

	2007	2008	2009	RIP
Sales in volume (index)	100	84	53	59
Sales in value (index)	100	92	66	73
Unit selling price (index)	100	109	124	123

Source: Verified questionnaire replies of the Union industry.

- (56) The Union industry sales volume decreased by 41 % over the period considered. The major decrease took place in 2009 due to the general economic downturn. Thus the Union industry sales volume decreased proportionally more than the Union consumption in the same period. Sales value decreased less significantly than volume as the Union industry managed to increase its price levels over the period considered where unit selling prices increased by 23 %.

#### 4.4. Market share and growth

Table 6

##### Union industry's market share

	2007	2008	2009	RIP
Index	100	100	105	95

Source: Verified questionnaire replies of the Union industry, adjusted Eurostat statistics.

- (57) The Union industry's market share increased by 5 % in 2009 before dropping significantly by 10 % in the RIP. This indicates that in the absence of growth on the market, the Union industry could not maintain its market share.

#### 4.5. Employment, wages and productivity

Table 7

##### Employment, wages and productivity

	2007	2008	2009	RIP
Employment (index)	100	87	55	57
Wages (EUR/employee; index)	100	108	106	113
Productivity (index)	100	91	65	82

Source: Verified questionnaire replies of the Union industry.

- (58) Employment decreased significantly over the period considered as a consequence of the economic downturn and the new market situation. Average wages increased by 13 % as a consequence of high inflation rate which directly impacted salary indexation. Productivity decreased by 18 % during the same period as a result of the decrease in production volume which could not be compensated by the headcount reduction.

#### 4.6. Profitability

Table 8

##### Profitability

	2007	2008	2009	RIP
Index	- 100	- 192	- 351	- 206

Source: Verified questionnaire replies of the Union industry.

- (59) The profitability of the Union industry decreased by more than 106 % over the period considered as a consequence of the economic downturn and the disappearance of the CRT-screen application which both affected sales volumes and costs of production. The industry was continually loss-making throughout the period considered.



#### 4.7. Investments, return on investments and ability to raise capital

Table 9

##### Investments and return on investments

	2007	2008	2009	RIP
Investment (index)	100	82	90	97
Return on investment (index)	- 100	- 251	- 506	- 176

Source: Verified questionnaire replies of the Union industry.

- (60) Investments remained stable during the period considered. Investments made by the Union industry were expensed in the year when they were made. Return on investment (profit expressed as a percentage of investments per year) developed negatively over the period considered in line with profitability.
- (61) The investigation did not bring to light any evidence that the Union industry had any major problems in raising capital. It should however be noted that the investments made in the period considered were not significant.

#### 4.8. Cash flow

Table 10

##### Cash flow

	2007	2008	2009	RIP
Index	- 100	- 83	25	32

Source: Verified questionnaire replies of the Union industry.

- (62) Cash flow improved significantly over the period considered as a consequence of the reduction in inventory volumes.
- 4.9. Magnitude of the dumping margin
- (63) During the RIP, despite the measures in force substantial dumping continued at even higher levels than those established in the original investigation, based both on the data obtained from the cooperating exporting producers and Eurostat.

#### 4.10. Recovery from the effects of past dumping

- (64) The Union industry, in a negative economic context explained by the general economic downturn and the disappearance of one important application, did not

recover from past dumping, in particular in terms of sales volume, sales price and profitability. It was found moreover that dumping continued in the RIP.

#### 4.11. Export activity of the Union industry

Table 11

##### Export volume of the Union industry

	2007	2008	2009	RIP
Index	100	86	45	66

Source: Verified questionnaire replies of the Union industry.

- (65) Union industry exports of barium carbonate decreased by 34 % over the period considered. The Union industry could only export limited volumes given the severe competition from Chinese exports on non-Union markets. The decrease in export volumes over the period considered is also explained by the economic downturn.

#### 4.12. Conclusion on the situation of the Union industry

- (66) While all main injury indicators, such as sales volume, profitability, production, employment and productivity showed negative developments during the period considered, the anti-dumping measures had a softening impact on the situation of the Union industry.
- (67) As far as the market share of the Union industry is concerned, the slight decreasing trend shows that, despite existing measures and while market consumption decreased, Chinese imports not only excluded other countries from the market but also gained market share at the expense of the Union industry.
- (68) In conclusion, in view of the negative development of the indicators pertaining to the Union industry, it is considered that the Union industry continued to suffer material injury during the period concerned. It was therefore examined whether there was a likelihood of continuation of injury should measures be allowed to lapse.

### G. LIKELIHOOD OF CONTINUATION OF INJURY

#### 1. Summary of the analysis of the likelihood of the continuation of dumping and the recurrence of injurious dumping

- (69) It is recalled that consumption on the Union market decreased significantly since the original investigation due to the disappearance of the CRT and to the economic downturn. In these circumstances, the market share of Chinese imports has increased by more than

15 % while the market share of the Union industry and third country imports decreased significantly. This demonstrates that, despite the measures in force and the decreasing Union consumption, the Chinese exporting producers showed a continuous interest in the Union market and were able to exclude third countries from the Union market.

industry selling prices increased by only around 7 % in the same period, PRC imports were still undercutting Union prices by more than 15 % after the RIP.

## H. UNION INTEREST

### 1. Preliminary remark

(70) It is also recalled that the exporting producers in the PRC continued to dump and undercut Union industry prices at very significant levels in the RIP. Based on this, there is no reason to believe that the Chinese exporting producers will not continue to dump and undercut Union industry prices in the future.

(75) In accordance with Article 21 of the basic Regulation it was examined whether the continuation of the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of Union interest was based on an assessment of the various interests involved, i.e. those of the Union industry, importers and users of the product concerned.

(71) The investigation showed that the Chinese exporting producers had significant spare capacities during the RIP, i.e. around 280 000 tonnes. This represents more than three times the size of the Union market in the RIP. Despite the expected increase in demand in the PRC, overcapacity is expected to persist and remain very significant in the coming years.

(76) As the present investigation is an expiry review, it requires analysis of a situation in which anti-dumping measures have already been in place and the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

(72) The Union market is the main export destination for the PRC. Other major export markets such as the USA and India, have high<sup>(1)</sup> anti-dumping measures in place against barium carbonate originating in the PRC. These markets are therefore practically inaccessible to Chinese exports. In view of the Chinese exporting producers' interest in the Union market, it is expected that, if measures were repealed, a significant volume of exports would flood into the Union market, with a strong overall depressing effect on prices.

(77) On this basis it was examined whether there were compelling reasons which would lead to the conclusion that it was not in the Union interest to maintain measures in this particular case, despite the above conclusions on the likelihood of continuation of dumping and the likelihood of continuation of injury.

### 2. Conclusion on likelihood of continuation of injury

(73) On the basis of the above, it is considered that if measures were repealed, there would be a likelihood of a significant increase in dumped imports from the PRC to the Union, with downward pressure on prices. Such a situation would likely lead to the disappearance of the Union industry in the medium term as, on the one hand, the reduced sales volumes would not allow the Union industry to dilute fixed costs sufficiently and, on the other hand, it would not be able to reach sufficient price levels. The continuation of injury was magnified in the period considered by the economic downturn and by the disappearance of an important application.

### 2. Interests of the Union industry

(78) The investigation revealed that the Union industry was operating very cost-efficiently. Indeed, it reduced headcount and changed production models in order to adapt to the new market situation and ensure the sustainability of the plant where, as indicated in recital 53, barium carbonate and strontium carbonate are produced in alternating campaigns. Although the measures did not contribute to the recovery of the financial situation of the Union industry, they had a softening effect on its financial situation. Indeed, without the measures in place, it is likely that the Union market would have been flooded by low-priced imports originating in PRC and the Union industry would have had to close down.

### 3. Post RIP developments

(74) Although PRC import prices increased by 17,8 % from the end of the RIP to February 2011 while Union

(79) As mentioned above, the production model of the Union industry is based on two products that are inter-dependent; i.e. sufficient sales volumes for both products are necessary in order to dilute fixed costs. Should measures be allowed to lapse, the expected increased volume of dumped imports will lead to a substantial reduction of the barium carbonate activity, which, itself, will make the strontium carbonate activity less profitable, leading eventually to the dismantlement of the whole plant.

<sup>(1)</sup> Indian anti-dumping duties against Chinese barium carbonate range from 76,06 USD to 236 USD per ton; US anti-dumping duties against Chinese barium carbonate range from 34,4 to 81,3 %.

- (80) On the basis of the above, it was concluded that it is in the interest of the Union industry that measures against the dumped imports from the PRC be maintained.

### 3. Interests of unrelated importers

- (81) The Commission sent questionnaires to all known unrelated importers. Replies were received from four unrelated importers. Two of these importers were active in the production of slurry, a solution composed of barium carbonate, additives and water, destined for the brick industry.
- (82) Importers indicated that the imposition of anti-dumping duties had pushed prices upward at the time of imposition. In this regard, it should be noted that such difference was no longer noticeable as export prices to the Union when compared to average prices to all non-Union markets were found to be at similar levels as during the RIP <sup>(1)</sup>.
- (83) Importers also indicated that there was no shortage of barium carbonate on the Union market even though they were facing increasing difficulties to source barium carbonate from the PRC due to increased domestic demand. Import statistics do however not show any decrease in volume of exports of the product concerned to the Union during or after the RIP. This is also confirmed by the findings concerning overcapacity in recital 71.
- (84) It was also found that the measures in force did not have any negative effects on the financial situation of the importers.
- (85) On the basis of the above, it was concluded that the current measures in force had no substantial negative effect on their financial situation and that the continuation of the measures would not unduly affect the importers.

### 4. Interests of users

- (86) The Commission sent questionnaires to all known users. Replies were received from nine users of the product concerned. As indicated in recital 16, the main industrial users of barium carbonate in the Union are active in the brick and tile industry, the ceramics sector and in the production of ferrite.
- (87) One user has submitted that the existence or continuation of the measures would not be in the interest of users, however it did not substantiate its claim. None of the other users replying to the questionnaire indicated that the measures had a significant impact on their businesses and that they should be lifted.

### 5. Conclusion on Union interest

- (88) Given the above, it is concluded that there are no compelling reasons against the prolongation of the anti-dumping measures in force.

## I. ANTI-DUMPING MEASURES

- (89) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the measures be maintained. They were also granted a period to submit comments and claims subsequent to disclosure. No comments were received following disclosure.
- (90) It follows from the above that, as provided for under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of barium carbonate originating in PRC, imposed by Regulation (EC) No 1175/2005 should be maintained,

HAS ADOPTED THIS REGULATION:

### Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of barium carbonate with a strontium content of more than 0,07 % by weight and a sulphur content of more than 0,0015 % by weight, whether in powder, pressed granular or calcined granular form, currently falling within CN code ex 2836 60 00 (TARIC code 2836 60 00 10), originating in the People's Republic of China.

2. The amount of the definitive anti-dumping duty shall be equal to a fixed amount as specified below for products produced by the following manufacturers:

Company	Rate of duty (EUR/t)	TARIC additional code
Hubei Jingshan Chutian Barium Salt Corp. Ltd, 62, Qinglong Road, Songhe Town, Jingshan County, Hubei Province, PRC	6,3	A606
Zaozhuang Yongli Chemical Co. Ltd, South Zhuzibukuang Qichun, Zaozhuang City Center District, Shandong Province, PRC	8,1	A607
All other companies	56,4	A999

3. In cases where the goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 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 <sup>(2)</sup>, the amount of the anti-dumping duty, calculated on the basis of the fixed amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

<sup>(1)</sup> Source: Chinese export statistics.

<sup>(2)</sup> OJ L 253, 11.10.1993, p. 1.

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

*Article 2*

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union* and shall be in force for a period of 5 years.

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

Done at Brussels, 16 August 2011.

*For the Council*  
*The President*  
M. DOWGIELEWICZ

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**COMMISSION IMPLEMENTING REGULATION (EU) No 832/2011****of 18 August 2011****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

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

Whereas:

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 19 August 2011.

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

Done at Brussels, 18 August 2011.

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

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

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

## ANNEX

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

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	AR	38,5
	MK	29,3
	ZZ	33,9
0707 00 05	TR	141,4
	ZZ	141,4
0709 90 70	EC	45,6
	TR	147,7
	ZZ	96,7
0805 50 10	AR	62,5
	BR	45,3
	CL	75,4
	TR	64,0
	UY	94,4
	ZA	82,0
	ZZ	70,6
0806 10 10	EG	67,8
	MK	41,0
	TR	158,0
	ZZ	88,9
0808 10 80	AR	84,3
	BR	60,8
	CA	98,2
	CL	115,4
	CN	73,5
	NZ	100,9
	US	161,1
	ZA	90,7
	ZZ	98,1
0808 20 50	AR	161,3
	CL	156,9
	CN	49,3
	NZ	115,4
	ZA	117,2
	ZZ	120,0
0809 30	TR	121,9
	ZZ	121,9
0809 40 05	BA	46,2
	ZZ	46,2

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



**COMMISSION IMPLEMENTING REGULATION (EU) No 833/2011****of 18 August 2011****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EU) No 867/2010 for the 2010/11 marketing year**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector <sup>(2)</sup>, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

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

for the 2010/11 marketing year are fixed by Commission Regulation (EU) No 867/2010 <sup>(3)</sup>. These prices and duties have been last amended by Commission Implementing Regulation (EU) No 823/2011 <sup>(4)</sup>.

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 19 August 2011.

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

Done at Brussels, 18 August 2011.

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

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

<sup>(2)</sup> OJ L 178, 1.7.2006, p. 24.

<sup>(3)</sup> OJ L 259, 1.10.2010, p. 3.

<sup>(4)</sup> OJ L 209, 17.8.2011, p. 41.

## ANNEX

**Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 19 August 2011**

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 <sup>(1)</sup>	48,04	0,00
1701 11 90 <sup>(1)</sup>	48,04	0,49
1701 12 10 <sup>(1)</sup>	48,04	0,00
1701 12 90 <sup>(1)</sup>	48,04	0,20
1701 91 00 <sup>(2)</sup>	53,24	1,50
1701 99 10 <sup>(2)</sup>	53,24	0,00
1701 99 90 <sup>(2)</sup>	53,24	0,00
1702 90 95 <sup>(3)</sup>	0,53	0,20

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

# DECISIONS

## COMMISSION DECISION

of 4 August 2011

**extending the period referred to in Article 114(6) of the Treaty on the Functioning of the European Union in relation to national provisions maintaining the limit values for lead, barium, arsenic, antimony, mercury and nitrosamines and nitrosatable substances in toys notified by Germany pursuant to Article 114(4)**

*(notified under document C(2011) 5355)*

**(Only the German text is authentic)**

**(Text with EEA relevance)**

(2011/510/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114(6) thereof,

Whereas:

### FACTS

- (1) On 20 January 2011, the German Federal Government requested the Commission, pursuant to Article 114(4) of the Treaty on the Functioning of the European Union (TFEU), the permission to retain the existing provisions provided in German law for the five elements: lead, arsenic, mercury, barium and antimony, as well as for nitrosamines and nitrosatable substances released from toy material, beyond the date of entry into force of Annex II, Part III of Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys <sup>(1)</sup>.

### Article 114(4) and (6) TFEU

- (2) Article 114(4) and (6) TFEU provides:

‘4. If, after the adoption by the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 36, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

(...)

6. The Commission shall, within 6 months of the notification, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction to trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

In the absence of a Decision by the Commission within this period the national provisions referred to in paragraphs 4 (...) shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to 6 months.’

### Directive 2009/48/EC

- (3) Directive 2009/48/EC (hereinafter ‘the Directive’) lays down rules on the safety of toys and on their free movement in the European Union. According to Article 54, Member States shall bring into force national provisions complying with this Directive by 20 January 2011, and they shall apply them as from 20 July 2011. Part III of Annex II to the Directive will be applicable as from 20 July 2013.
- (4) The Directive contains, in Annex II, part III, point 8, specific values for nitrosamines and nitrosatable substances. These substances shall be prohibited for use in toys intended for use by children under 36 months or in other toys intended to be placed in the mouth if the migration of the substances is equal to or higher than 0,05 mg/kg for nitrosamines and 1 mg/kg for nitrosatable substances. Point 13 of part III of Annex II to

<sup>(1)</sup> OJ L 170, 30.6.2009, p. 1.

the Directive contains specific migration limits for several elements, including lead, arsenic, mercury, barium and antimony. Three different migration limits exist, related to the type of toy material: dry, brittle, power-like or pliable toy material, liquid or sticky toy material and scraped-off toy material. The following limits shall not be exceeded: 13,5, 3,4 and 160 mg/kg for lead, 3,8, 0,9 and 47 mg/kg for arsenic, 7,5, 1,9 and 94 mg/kg for mercury, 4 500, 1 125 and 56 000 mg/kg for barium, and 45, 11,3 and 560 mg/kg for antimony.

### The German national provisions

- (5) The German Consumer Goods Ordinance (*Bedarfsgegenständeverordnung*) sets requirements for nitrosamines and nitrosatable substances. These provisions were adopted in 2008, in the context of the absence of specific EU provisions on nitrosamines and nitrosatable substances in toys. The Consumer Goods Ordinance (*Bedarfsgegenständeverordnung*) requires that for nitrosamines and nitrosatable substances in toys made of natural or synthetic rubber designed for children under 36 months and intended or likely to be placed in the mouth, the amount released as a result of migration must be so small as not to be laboratory detectable. The abovementioned Ordinance currently requires the migration of nitrosamines and nitrosatable substances to be below 0,01 mg/kg for nitrosamines and below 0,1 mg/kg for nitrosatable substances. The detailed provisions on nitrosamines and nitrosatable substances are laid down in Annex 4, point 1.b, and Annex 10, point 6, of the Consumer Goods Ordinance (*Bedarfsgegenständeverordnung*), published on 23 December 1997, and most recently amended by the Ordinance of 6 March 2007.
- (6) The Second Equipment and Product Safety Act Ordinance (*Verordnung über die Sicherheit von Spielzeug – 2. GPSGV*) concerns in particular the following elements: lead, arsenic, mercury, barium and antimony. The limit values for the abovementioned elements contained in the Second Equipment and Product Safety Act Ordinance (*Verordnung über die Sicherheit von Spielzeug – 2. GPSGV*) are those laid down in Council Directive 88/378/EEC of 3 May 1988 on the approximation of the laws of the Member States concerning the safety of toys <sup>(1)</sup>. These limits have been applicable in the EU since 1990. The maximum daily bioavailability is 0,7 µg for lead, 0,1 µg for arsenic, 0,5 µg for mercury, 25 µg for barium, and 0,2 µg for antimony. The detailed provisions on the abovementioned elements are laid down in § 2 of the Second Equipment and Product Safety Act Ordinance (*Verordnung über die Sicherheit von Spielzeug – 2. GPSGV*), most recently amended by the Ordinance of 6 March 2007.

### PROCEDURE

- (7) At the time of adoption of the Directive (May 2009) Germany voted against its adoption for reasons including its view that the level of protection as regards the chemical requirements is inadequate.

- (8) With a first letter of its Federal Ministry of Economic Affairs and Technology, received on 20 January 2011, the German Federal Government requested the Commission, pursuant to Article 114(4) TFEU, the permission to retain the existing provisions provided in German law for the five elements: lead, arsenic, mercury, barium and antimony, as well as for nitrosamines and nitrosatable substances released from toy material, beyond the date of entry into force of Annex II, Part III of the Directive. A complete justification of the request has been sent by the German Federal Government with letter from the Office of its Permanent Representative, dated 2 March 2011. The detailed justification contained several annexes including scientific studies on the health assessment of the abovementioned substances from the Bundesinstitut für Risikobewertung (hereinafter 'BfR'), dating January 2011.
- (9) The Commission confirmed receipt of the request with letters dated 24 February and 14 March 2011 and set the deadline for her reaction to 5 September 2011 in accordance with Article 114(6) TFEU.
- (10) By letter of 24 June 2011 the Commission informed the other Member States of the notification received from the German Federal Government. The Commission also published a notice regarding the notification in the *Official Journal of the European Union* <sup>(2)</sup> in order to inform other interested parties of the national provisions the German Federal Government intends to maintain as well as the grounds invoked to that effect.

### ASSESSMENT

#### Admissibility

- (11) Article 114(4) concerns cases in which national provisions are notified in relation to an EU harmonisation measure, where the former were adopted and entered into force before the adoption of the latter and where the maintenance of the national provisions would be incompatible with the EU harmonisation measure. The national provisions were notified in relation to Directive 2009/48/EC, a harmonisation measure adopted on the basis of Article 95 of the former EC Treaty. They were adopted and entered into force in 1990 and 2008, therefore before the adoption of that Directive.

Furthermore, Article 114(4) requires that the notification of the national provisions be accompanied by a description of the grounds relating to one or more of the major needs referred to in Article 36 or to the protection of the environment or the working environment. The application submitted by Germany contains an explanation of the reasons relating to the protection of the human health which, in the opinion of Germany, justify the maintenance of its national provisions.

<sup>(1)</sup> OJ L 187, 16.7.1988, p. 1.

<sup>(2)</sup> OJ C 159, 28.5.2011, p. 23.

In the light of the foregoing, the Commission considers that the application submitted by Germany with a view to obtaining authorisation to maintain its national provisions on the five elements: lead, arsenic, mercury, barium and antimony, as well as for nitrosamines and nitrosatable substances, is admissible.

#### **Recourse to Article 114(6), third subparagraph TFEU**

- (12) After a careful examination of all data and information, the Commission considers that the conditions laid down in Article 114(6), third subparagraph, are met in order for it to have recourse to the possibility of extending the 6-month period within which it has to approve or reject the national provisions notified by Germany.

#### *Justification based on the complexity of the matter*

- (13) The German Federal Government provided several annexes containing detailed justification and scientific information in support of the notified national measures. In particular, health assessment from the BfR on lead, antimony, barium, arsenic and mercury, as well as on nitrosamines and nitrosatable substances, dating from January 2011, was provided.
- (14) The information received from the BfR contains detailed and complex toxicological data on the abovementioned substances, as well as extended references to scientific reports and literature. It is necessary, in order to proceed to a Commission decision pursuant to Article 114(6) TFEU, to verify if the information provided by Germany was already assessed and considered during the Directive's revision process, or if it is to be considered as new scientific information.
- (15) The directive foresees, in Article 46, the possibility to amend certain chemical-related provisions in order to ensure alignment on technical and scientific developments. The five elements concerned by Germany's request (lead, arsenic, barium, mercury and antimony) can therefore be amended and aligned on the latest scientific information.
- (16) The Commission set up, in 2010, a working group on chemical substances in toys (hereinafter 'the working group'), at the request of Member States. This working group, made up of chemical experts from the Czech Republic, Denmark, Germany, France, Italy, the Netherlands, Austria, Sweden and Industry and Consumer organisations evaluates new scientific information and gives recommendations to Member States and the Commission on how to proceed with the amendment of certain chemical provisions contained in the Directive.
- (17) The Commission will seek the opinion of the working group on the detailed justification received from Germany, to determine if it can be considered as new

scientific information and therefore used as a basis for amending the chemical provisions of the Directive by setting out stringent requirements. The next meeting of the working group is foreseen on 31 August 2011.

- (18) Furthermore, on 5 April 2011, the working group recommended to Member States experts the amendment of the current values for lead downwards. These recommendations were endorsed by the Commission and experts from Member States. The Commission started the preparatory work for this amendment and the preliminary impact assessment report will be presented for discussion during the next meeting with Member States experts in October 2011. A formal proposal is planned for adoption in the first half of 2012.
- (19) The working group discussed the current limit values for barium, and stated that no new scientific evidence was available; however different assessments by scientific organisations were taken. The working group decided that further discussion is needed. The working group is expected to finalise its recommendations during the meeting of 31 August 2011, which then will be presented to Member States experts in October 2011.
- (20) The Scientific Committee for Consumer Safety (SCCS) is currently evaluating the seriousness of the risk posed by the presence of nitrosamines and nitrosatable substances in balloons and cosmetic products. This opinion, expected for September 2011, will bring new light on children's exposure to nitrosamines and nitrosatables substances and on the risk related to this exposure.
- (21) The Commission Decision pursuant to Article 114(6), first subparagraph, should therefore await the outcome of the ongoing discussions and evaluations, in order to carefully assess all relevant current or future evidence and draw consequences as regards to the national measures. Hence, the Commission considers that it is justified to extend the 6-month period within which it has to approve or reject the national provisions for a further period expiring on 5 March 2012.

#### *Absence of danger to human health*

- (22) As indicated in Article 55 of the Directive, point 8 and 13 of part III, Annex II will be applicable from 20 July 2013. Until 20 July 2013, the current provisions related to lead, antimony, barium, arsenic and mercury laid down in Directive 88/378/EEC and in the Second Equipment and Product Safety Act Ordinance (*Verordnung über die Sicherheit von Spielzeug – 2. GPSGV*) will apply. As there are no applicable EU provisions on nitrosamines and nitrosatable substances released from toys, Annex 4, point 1.b, and Annex 10, point 6, of the Consumer Goods Ordinance (*Bedarfsgegenständeverordnung*) remains as well applicable until 20 July 2013.

- (23) Therefore, as the national provisions the German Federal Government intends to maintain will not be repealed before 20 July 2013, the Commission concludes that the condition of absence of danger to health is met.

#### CONCLUSION

- (24) In the light of the foregoing, the Commission concludes that the application of Germany, completely notified to it on 2 March 2011, with a view of obtaining approval for maintaining the values for lead, arsenic, mercury, barium and antimony, as well as for nitrosamines and nitrosatable substances, for use in toys intended for use by children under 36 months or in other toys intended to be placed in the mouth, is admissible.
- (25) However, in view of the complexity of the matter and of the absence of evidence highlighting a danger for human health, the Commission considers it justified to extend the period referred to in Article 114(6), first subparagraph, for a further period expiring on 5 March 2012,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Pursuant to Article 114(6), third subparagraph, TFEU, the period of 6 months referred to in its first subparagraph to approve or reject the national provisions concerning the five elements (lead, arsenic, mercury, barium and antimony, as well as for nitrosamines and nitrosatable substances), notified by Germany on 2 March 2011, pursuant to Article 114(4), is extended until 5 March 2012.

#### *Article 2*

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 4 August 2011.

*For the Commission*

Antonio TAJANI

*Vice-President*

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## COMMISSION DECISION

of 17 August 2011

**amending Decision 2004/452/EC laying down a list of bodies whose researchers may access confidential data for scientific purposes***(notified under document C(2011) 5777)***(Text with EEA relevance)**

(2011/511/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics <sup>(1)</sup> and in particular Article 23 thereof,

Whereas:

- (1) Commission Regulation (EC) No 831/2002 <sup>(2)</sup>, concerning access to confidential data for scientific purposes establishes, for the purpose of enabling statistical conclusions to be drawn for scientific purposes, the conditions under which access to confidential data transmitted to the Community authority may be granted and the rules of cooperation between the Community and national authorities in order to facilitate such access.
- (2) Commission Decision 2004/452/EC <sup>(3)</sup> has laid down a list of bodies whose researchers may access confidential data for scientific purposes.
- (3) Social Protection, Social Inclusion Strategy Unit, Directorate-General for Employment, Social Affairs and Inclusion of the European Commission and Institute for

Fiscal Studies (Instituto de Estudios Fiscales — IEF), Madrid, Spain, have to be regarded as bodies fulfilling the required conditions and should therefore be added to the list of agencies, organisations and institutions referred to in Article 3(1)(e) of Regulation (EC) No 831/2002.

- (4) The measures provided for in this Decision are in accordance with the opinion of the European Statistical System Committee (ESS Committee),

HAS ADOPTED THIS DECISION:

*Article 1*

The Annex to Decision 2004/452/EC is replaced by the text set out in the Annex to this Decision.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 17 August 2011.

*For the Commission*

Olli REHN

*Member of the Commission*

<sup>(1)</sup> OJ L 87, 31.3.2009, p. 164.

<sup>(2)</sup> OJ L 133, 18.5.2002, p. 7.

<sup>(3)</sup> OJ L 156, 30.4.2004, p. 1.

## ANNEX

## ‘ANNEX

**BODIES WHOSE RESEARCHERS MAY ACCESS CONFIDENTIAL DATA FOR SCIENTIFIC PURPOSES**

European Central Bank

Spanish Central Bank

Italian Central Bank

University of Cornell (New York State, United States of America)

Department of Political Science, Baruch College, New York City University (New York State, United States of America)

German Central Bank

Employment Analysis Unit, Directorate-General for Employment, Social Affairs and Equal Opportunities of the European Commission

University of Tel Aviv (Israel)

World Bank

Center of Health and Wellbeing (CHW) of the Woodrow Wilson School of Public and International Affairs at Princeton University, New Jersey, United States of America

The University of Chicago (UofC), Illinois, United States of America

Organisation for Economic Cooperation and Development (OECD)

Family and Labour Studies Division of Statistics Canada, Ottawa, Ontario, Canada

Econometrics and Statistical Support to Antifraud (ESAF) Unit, Directorate-General Joint Research Centre of the European Commission

Support to the European Research Area (SERA) Unit, Directorate-General Joint Research Centre of the European Commission

Canada Research Chair of the School of Social Science in the Atkinson Faculty of Liberal and Professional Studies at York University, Ontario, Canada

University of Illinois at Chicago (UIC), Chicago, USA

Rady School of Management at the University of California, San Diego, USA

Directorate for Research, Studies and Statistics (*Direction de l'Animation de la Recherche, des Études et des Statistiques — DARES*) in the Ministry of Labour, Labour Relations and Solidarity, Paris, France

The Research Foundation of State University of New York (RFSUNY), Albany, USA

Finnish Centre for Pensions, (*Eläketurvakeskus — ETK*), Finland

Directorate for Research, Studies, Assessment and Statistics (*Direction de la Recherche, des Études, de l'Évaluation et des Statistiques — DREES*) in the Ministry of Labour, social dialogue and solidarity, the Ministry of Health, youth and sports and the Ministry of Budget, public accounts and state reform, Paris, France

Duke University (DUKE), North Carolina, USA

Social Insurance Institution of Finland (*Kansaneläkelaitos — KELA*), Finland

Hebrew University of Jerusalem (HUJI), Israel

Federal Public Service Social Security, Belgium

Sabanci University, Tuzla/Istanbul, Turkey

McGill University, Montreal, Canada

Directorate Economic Service and Structural Reforms, Directorate-General for Economic and Financial Affairs of the European Commission

Social Protection, Social Inclusion Strategy Unit, Directorate-General for Employment, Social Affairs and Inclusion of the European Commission

Institute for Fiscal Studies (Instituto de Estudios Fiscales — IEF), Madrid, Spain'

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## COMMISSION IMPLEMENTING DECISION

of 18 August 2011

**amending Annex I to Decision 2004/211/EC as regards the entries for Bahrain and Lebanon in the list of third countries and parts thereof from which the introduction into the Union of live equidae and semen, ova and embryos of the equine species are authorised**

(notified under document C(2011) 5863)

(Text with EEA relevance)

(2011/512/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 92/65/EEC of 13 July 1992, laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC <sup>(1)</sup>, and in particular Article 17(3)(a) thereof,

Having regard to Council Directive 2009/156/EC of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae <sup>(2)</sup>, and in particular Article 12(1) and (4), and the introductory phrase of Article 19 and points (a) and (b) of Article 19 thereof,

Whereas:

- (1) Directive 92/65/EEC lays down conditions applicable to imports of animals, semen, ova and embryos. Those conditions are to be at least equivalent to those applicable to trade between Member States.
- (2) Directive 2009/156/EC lays down animal health conditions for the importation into the Union of live equidae. It provides that imports of equidae into the Union are only authorised from third countries which have been free from glanders for a period of six months.
- (3) Commission Decision 2004/211/EC of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC <sup>(3)</sup> establishes a list of third countries, or parts thereof where regionalisation applies, from which Member States are to authorise the importation of equidae and semen, ova and embryos thereof, and indicates the other conditions applicable to

such imports. That list is set out in Annex I to that Decision and includes registered horses and semen thereof from Lebanon.

- (4) The Regional Commission for the Middle East of the World Organisation for Animal Health (OIE) informed the Commission of the confirmation by an OIE Reference Laboratory of glanders (*Burkholderia mallei*) cases in equidae in Lebanon.
- (5) The introduction into the Union from Lebanon of registered horses and of semen thereof should therefore no longer be authorised. Accordingly, it is necessary to amend the entry for Lebanon in the list set out in Annex I to Decision 2004/211/EC.
- (6) In April 2010, the Commission received a report about confirmed cases of glanders in the northern parts of Bahrain. In order to suspend the introduction into the Union of registered horses, their semen, ova and embryos, the Commission adopted Decision 2010/333/EU of 14 June 2010 amending Decision 2004/211/EC as regards the entries for Bahrain and Brazil in the list of third countries and parts thereof from which the introduction into the European Union of live equidae and semen, ova and embryos of the equine species are authorised <sup>(4)</sup>.
- (7) A veterinary inspection mission carried out in Bahrain in June 2011 found sufficient evidence that Bahrain had implemented measures to control the disease in the north and that surveillance carried out throughout the territory of Bahrain confirmed the continued absence of this disease in the southern part of Bahrain. In addition, Bahrain has implemented movement controls, which include a strictly enforced ban on movements of equidae from the northern part of the territory of Bahrain into the southern part of the main island of Bahrain. Consequently, it is possible to regionalise Bahrain in order to authorise the temporary admission and imports into the Union of registered horses from the southern part of the main island of Bahrain.
- (8) Accordingly, it is necessary to amend the entry for Bahrain and to provide details of the delimitation of the southern part of the main island of Bahrain in the list set out in Annex I to Decision 2004/211/EC.

<sup>(1)</sup> OJ L 268, 14.9.1992, p. 54.

<sup>(2)</sup> OJ L 192, 23.7.2010, p. 1.

<sup>(3)</sup> OJ L 73, 11.3.2004, p. 1.

<sup>(4)</sup> OJ L 150, 16.6.2010, p. 53.

- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

*Article 1*

Annex I to Decision 2004/211/EC is amended as follows:

1. the entry for Lebanon is replaced by the following:

LB	Lebanon	LB-0	Whole country	E	—	—	—	—	—	—	—	—	—	—
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2. the entry for Bahrain is replaced by the following:

BH	Bahrain	BH-0	Whole country	E	—	—	—	—	—	—	—	—	—	—
		BH-1	Southern part of the main island of Bahrain (see Box 4 for details)	E	X	—	X	—	—	—	—	—	—	—

3. Box 4 is added in accordance with the Annex.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 18 August 2011.

*For the Commission*

John DALLI

*Member of the Commission*

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## ANNEX

The following Box 4 shall be added to Annex I to Decision 2004/211/EC:

Box 4:

BH	Bahrain	BH-1	<p>Delimitation of the southern part of the main island of Bahrain</p> <p>Northern boundary: From the West coast at the end of Zallaq Highway at the entrance of Sofitel Hotel in an easterly direction along Zallaq Highway to the junction with SHK Khalifa Highway,</p> <p>proceeds along SHK Khalifa Highway in a northerly direction until the boundary of Al Rawdha, demarcated by the wall of the Kings Palace,</p> <p>proceeds along the boundaries of the area of Al Rawdha in easterly direction to the roundabout at Al Safra on the SHK Salman Highway and further in a southerly direction to the roundabout at the entrance to Awali village,</p> <p>proceeds along Muaskar Highway in an easterly direction to the roundabout at Al Esteglal Highway/Hawar Highway and further in a southerly direction on Hawar Highway until that terminates at the eastern coast at the entrance of the village of Askar.</p> <p>Western boundary: coast line</p> <p>Eastern boundary: coast line</p> <p>Southern boundary: coast line'</p>
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