

# Official Journal of the European Union

L 50



English edition

Legislation

Volume 59

26 February 2016

## Contents

### II *Non-legislative acts*

#### REGULATIONS

- ★ **Commission Implementing Regulation (EU) 2016/261 of 24 February 2016 amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin** ..... 1
- ★ **Commission Implementing Regulation (EU) 2016/262 of 25 February 2016 imposing a provisional anti-dumping duty on imports of aspartame originating in the People's Republic of China** ..... 4
- ★ **Commission Regulation (EU) 2016/263 of 25 February 2016 amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the title of the food category 12.3 Vinegars <sup>(1)</sup>** ..... 25
- Commission Implementing Regulation (EU) 2016/264 of 25 February 2016 establishing the standard import values for determining the entry price of certain fruit and vegetables ..... 27

#### DECISIONS

- ★ **Commission Implementing Decision (EU) 2016/265 of 25 February 2016 on the approval of the MELCO Motor Generator as an innovative technology for reducing CO<sub>2</sub> emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council <sup>(1)</sup>** ..... 30

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

EN

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

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



## II

*(Non-legislative acts)*

## REGULATIONS

**COMMISSION IMPLEMENTING REGULATION (EU) 2016/261****of 24 February 2016****amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <sup>(1)</sup>, and in particular Article 183(b) thereof,

Having regard to Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009 <sup>(2)</sup>, and in particular Article 5(6)(a) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 <sup>(3)</sup> lays down detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.
- (2) Regular monitoring of the data used to determine representative prices for poultrymeat and egg products and for egg albumin shows that the representative import prices for certain products should be amended to take account of variations in price according to origin.
- (3) Regulation (EC) No 1484/95 should be amended accordingly.
- (4) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EC) No 1484/95 is replaced by the text set out in the Annex to this Regulation.

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.<sup>(2)</sup> OJ L 150, 20.5.2014, p. 1.<sup>(3)</sup> Commission Regulation (EC) No 1484/95 of 28 June 1995 laying down detailed rules for implementing the system of additional import duties and fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and repealing Regulation No 163/67/EEC (OJ L 145, 29.6.1995, p. 47).

*Article 2*

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

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

Done at Brussels, 24 February 2016.

*For the Commission,*

*On behalf of the President,*

Jerzy PLEWA

*Director-General for Agriculture and Rural Development*

---

## ANNEX

## ‘ANNEX I

| CN code    | Description   | Representative price<br>(EUR/100 kg) | Security under<br>Article 3<br>(EUR/100 kg) | Origin <sup>(1)</sup> |
|------------|---|--------------------------------------|---|-----------------------|
| 0207 12 10 | Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “70 % chickens”, frozen | 136,2                                | 0   | AR                    |
| 0207 12 90 | Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “65 % chickens”, frozen | 158,9                                | 0   | AR                    |
|            |   | 147,1                                | 0   | BR                    |
| 0207 14 10 | Fowls of the species <i>Gallus domesticus</i> , boneless cuts, frozen                                   | 294,0                                | 2   | AR                    |
|            |   | 200,4                                | 30  | BR                    |
|            |   | 296,4                                | 1   | CL                    |
|            |   | 240,5                                | 18  | TH                    |
| 0207 27 10 | Turkeys, boneless cuts, frozen  | 338,0                                | 0   | BR                    |
|            |   | 239,0                                | 17  | CL                    |
| 0408 91 80 | Eggs, not in shell, dried   | 402,1                                | 0   | AR                    |
| 1602 32 11 | Preparations of fowls of the species <i>Gallus domesticus</i> , uncooked                                | 260,0                                | 8   | BR                    |

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). The code ‘ZZ’ represents ‘other origins’.

**COMMISSION IMPLEMENTING REGULATION (EU) 2016/262****of 25 February 2016****imposing a provisional anti-dumping duty on imports of aspartame originating in the People's Republic of China**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> ('the basic Regulation'), and in particular Article 7(4) thereof,

After consulting the Member States,

Whereas:

**1. PROCEDURE****1.1. Initiation**

- (1) On 30 May 2015, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of aspartame originating in the People's Republic of China ('the country concerned' or 'the PRC'). The Commission initiated the investigation on the basis of Article 5 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* <sup>(2)</sup> ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 16 April 2015 by Ajinomoto Sweeteners Europe SAS ('the complainant'). The complainant is the sole producer of aspartame in the Union. The complainant thus represents the total Union production of aspartame. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

**1.2. Interested parties**

- (3) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, the known exporting producers and the Chinese authorities, the known importers, users, traders and distributors known to be concerned about the initiation of the investigation and invited them to participate.
- (4) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.
- (5) In the context of the initiation of the investigation, none of the interested parties requested a hearing before the Commission services and/or with the Hearing Officer in trade proceedings.

**1.3. Analogue country producers**

- (6) In the Notice of Initiation, the Commission informed interested parties that it envisaged Japan or South Korea as third market economy countries within the meaning of Article 2(7)(a) of the basic Regulation. Therefore, the Commission informed producers in Japan and South Korea about the initiation and invited them to participate. Interested parties had an opportunity to comment and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

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

<sup>(2)</sup> Notice of initiation of an anti-dumping proceeding concerning imports of aspartame originating in the People's Republic of China as well as aspartame originating in the People's Republic of China contained in certain preparations and/or mixtures (OJ C 177, 30.5.2015, p. 6).

#### 1.4. Sampling

- (7) In its Notice of Initiation, the Commission stated that it might sample exporting producers and importers of the product concerned in the Union in accordance with Article 17 of the basic Regulation.

##### 1.4.1. Sampling of importers

- (8) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known importers to provide the information specified in the Notice of Initiation.
- (9) None of the known importers contacted by the Commission replied to the questionnaire in the Notice of Initiation for the selection of a sample. Sampling was therefore not applicable in this investigation.
- (10) Two distributors, namely traders who buy and resell aspartame solely produced by the Union producer, made themselves known and provided a reply to the questionnaire.

##### 1.4.2. Sampling of exporting producers in the PRC

- (11) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the mission of the PRC to the Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (12) Six exporting producers in the country concerned provided the requested information and agreed to be included in a sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three exporting producers on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. On this basis, the three sampled Chinese exporting producers or groups that agreed to cooperate represent about 90 % of the total imports of aspartame originating in the PRC. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the country concerned, were consulted on the selection of the sample. No comments were made.

##### 1.4.3. Individual examination

- (13) Three non-sampled exporting producers in the country concerned requested individual examination under Article 17(3) of the basic Regulation and were provided with the claim form. However, none of these three exporting producers provided the completed claim form within the given deadlines. Therefore, the Commission considers that the claims for individual examination made by the three non-sampled exporting producers are not valid.

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

- (14) For the purposes of Article 2(7)(b) of the basic Regulation, the Commission sent MET claim forms to the six cooperating exporting producers in the country concerned that wished to apply for an individual dumping margin. Two of the six cooperating exporting producers submitted a completed MET claim form but one of them subsequently withdrew its request.

#### 1.6. Replies to the questionnaire

- (15) The Commission sent questionnaires to the Union producer, the cooperating exporting producers in the country concerned, one producer in Japan, chosen as the analogue country as explained in recital 45 below, the known users and to the two distributors who made themselves known after the publication of the notice of initiation.
- (16) Questionnaire replies were received from the Union producer, the three sampled exporting producers in the country concerned, one producer in Japan ('the analogue country'), two distributors and five users.

### 1.7. Verification visits

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

(a) Union producer:

- Hyet Sweet SAS (previously Ajinomoto Sweeteners Europe SAS), Gravelines, France.

(b) Users:

- Princes Limited, Liverpool, the UK,
- Wrigley Company Limited, Plymouth, the UK.

(c) Exporting producers in the country concerned:

- the Sinosweet group ('Sinosweet'), including:
  - Sinosweet Co., Ltd, Yixing city, Jiangsu Province, the PRC, and
  - Hansweet Co., Ltd, Yixing city, Jiangsu Province, the PRC,
- the Niutang group ('Niutang'), including:
  - Nantong Changhai Food Additive Co., Ltd, Nantong city, Jiangsu Province, the PRC, and
  - Changzhou Niutang Chemical Plant Co., Ltd, Niutang town, Changzhou city, Jiangsu Province, the PRC,
  - Changmao Biochemical Engineering Co., Ltd, Changzhou city, Jiangsu Province, the PRC ('Changmao').

(d) Importers related to the exporting producers:

- Niutang UK Co., Ltd, Telford, Shropshire, the UK.

(e) Producer in analogue country

- Ajinomoto Co., Tokyo, Japan.

### 1.8. Investigation period and period considered

- (18) The investigation of dumping and injury covered the period from 1 April 2014 to 31 March 2015 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from January 2011 to the end of the investigation period ('the period considered').

## 2. PRODUCT CONCERNED AND LIKE PRODUCT

### 2.1. Product concerned

- (19) The product concerned, as defined in the Notice of Initiation, is aspartame (N-L- $\alpha$ -Aspartyl-L-phenylalanine-1-methyl ester, 3-amino-N-( $\alpha$ -carbomethoxy-phenethyl)-succinamic acid-N-methyl ester), CAS RN 22839-47-0, originating in the PRC, as well as aspartame originating in the PRC and contained in preparations and/or mixtures comprising also other sweeteners and/or water, currently falling within CN code(s) ex 2924 29 98, ex 2106 90 92, ex 2106 90 98, ex 3824 90 92 and ex 3824 90 93.



- (20) Aspartame is a sweetening ingredient produced in the form of white, odourless crystals of various sizes with a taste profile similar to sugar but with an increased sweetness potency and considerably smaller caloric value. For this reason it is mainly used as a sugar substitute in the soft drink, food and dairy industries.
- (21) The investigation showed that preparations and/or mixtures containing aspartame originating in the PRC were in fact not imported into the Union market during the investigation period. The Commission concluded that due to the lack of imports, preparations and mixtures should not be included in the definition of the product scope. This clarification of the product definition has no bearing on the findings of dumping, injury, causation and Union interest.
- (22) The definition of the product concerned should therefore be clarified as referring only to aspartame (N-L- $\alpha$ -Aspartyl-L-phenylalanine-1-methyl ester, 3-amino-N-( $\alpha$ -carbomethoxy-phenethyl)-succinamic acid-N-methyl ester), CAS RN 22839-47-0, originating in the PRC, currently falling within CN code ex 2924 29 98 ('the product concerned', or 'aspartame').

## 2.2. Like product

- (23) The investigation showed that the following products have the same basic physical and chemical characteristics as well as the same basic uses:
- the product concerned,
  - the product produced and sold on the domestic market of the country concerned,
  - the product produced and sold on the domestic market of Japan, which served as an analogue country, and
  - the product produced and sold in the Union by the Union industry.

The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

## 3. DUMPING

### 3.1. Normal value

#### 3.1.1. Market economy treatment ('MET')

- (24) For the determination whether the criteria in Article 2(7)(c) of the basic Regulation are met, the Commission sought the necessary information by asking the exporting producers to fill in the MET claim form. One sampled exporting producer claimed MET and submitted the MET claim form within the deadline.
- (25) The Commission verified the submitted information at the premises of the company concerned.
- (26) The verification showed that the exporting producer did not comply with the criteria set forth in Article 2(7)(c) of the basic Regulation and therefore could not be granted MET, in particular shortcomings were found with regard to criteria 2 and 3.
- (27) The Commission disclosed the detailed findings to the exporting producer concerned, to the authorities of the country concerned and to the Union industry. The company contested the findings of the Commission and provided written comments on the disclosure. The main substantial comments received are addressed below.
- (28) Regarding criterion 2, the exporting producer reiterated that it has one clear set of independently audited accounting records, complying with the Hong Kong financial reporting standards.

- (29) Regarding criterion 3, the exporting producer claimed that the benefits obtained from preferential tax regime(s), grants or purchase of the land-use rights should be considered as similar to a subsidy and therefore should not be assessed in the framework of a MET investigation.
- (30) Moreover, the exporting producer claimed that the current assessment of the criteria 2 and 3 contradicts the conclusion of the two previous investigations in which the company requested MET, and in which it was concluded that criteria 2 and 3 were met.
- (31) The Commission recalls that for each investigation the MET decision is made independently, on the basis of the specific circumstances relevant to the investigation and by referring to the current practice. All investigations need to be conducted on a case-by-case basis.
- (32) Concerning the assessment of the preferential tax regime(s) and grants in the framework of the criterion 3, the Commission considers that the purpose of the MET assessment and the anti-subsidy investigation are different in so far as the MET assessment establishes whether a company operates under market-economy conditions, while the anti-subsidy investigation establishes whether a company benefits from countervailable subsidies. These two issues have to be dealt with separately, also because the relevant aspect in criterion 3 is whether production costs and financial situation of firms are not subject to significant distortions carried over from the former non-market economy system and not whether a company benefits from countervailable subsidies <sup>(1)</sup>.
- (33) Regarding the land-use rights transfer price, the Commission considers that the comments received do not change its conclusion that the land-use right was not obtained at market price value.
- (34) Moreover, the exporting producer requested a hearing chaired by the Hearing Officer. This hearing was held on 6 January 2016 and the company could develop all the reasons why it considers that it fulfils the requirements of criteria 2 and 3 of the MET.
- (35) However, it was considered after the hearing that the applicant still failed to demonstrate that it fulfilled the requirements of the second and third indents of Article 2(7)(c) of the basic Regulation. In particular, the applicant failed to demonstrate that it was not subject to significant distortions carried over from the non-market economy system. Indeed, the investigation revealed that the company benefited from preferential tax regime(s), grants and preferential land-use right transfer price and therefore did not fulfil the requirements of criterion 3 of the MET assessment.
- (36) Given the seriousness of the findings made for criterion 3 it is not considered necessary to further develop the shortcomings found for criterion 2 at this stage of the investigation.
- (37) The Commission informed the exporting producer of the final MET determination.

### 3.1.2. *Choice of the analogue country*

- (38) According to Article 2(7)(a) of the basic Regulation normal value was determined on the basis of the price or constructed value in a market economy third country for the exporting producers not granted MET. For this purpose, a market economy third country had to be selected ('the analogue country').
- (39) In the Notice of Initiation, the Commission informed interested parties that it envisaged Japan or South Korea as an appropriate analogue country and invited interested parties to comment.
- (40) Comments were received from the China Chamber of International Commerce, from the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters, as well as from Chinese exporting producers, which all contested the use of Japan as an analogue country. It was claimed that South Korea was a more appropriate analogue country because, among other reasons, the domestic South Korean market was more competitive than that of Japan.

<sup>(1)</sup> Please refer to Judgment in Case T-443/11 *Gold East Paper (Jiangsu) Co. Ltd and Gold Huasheng Paper (Suzhou Industrial Park) Co. Ltd v Council of the European Union*, the General Court of 11 September 2014.

- (41) In order to investigate all possibilities for selecting an appropriate analogue country, the Commission invited all known unrelated importers, the sampled Chinese exporting producers, the China Chamber of International Commerce, and the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters to provide all relevant information of any potential market economy third countries other than Japan and South Korea.
- (42) Based on the information available to the Commission, it was confirmed that aspartame was produced in a limited number of countries, namely in the PRC, in Japan, in South Korea and in the Union.
- (43) Based on the comments received, the Commission contacted a producer known to produce aspartame in South Korea, which however did not agree to cooperate with the investigation.
- (44) A Japanese producer was contacted and it provisionally agreed to cooperate with the investigation.
- (45) The Commission concluded at this stage that Japan is an appropriate analogue country under Article 2(7)(a) of the basic Regulation.

### 3.1.3. Normal value (analogue country)

- (46) The information received from the cooperating producer in the analogue country was used as a basis for the determination of the normal value for the exporting producers not granted MET, pursuant to Article 2(7)(a) of the basic Regulation.
- (47) Firstly, the Commission examined whether, in accordance with Article 2(2) of the basic Regulation, the total volume of the sales of the like product to independent customers in Japan was representative. To this end, this total sales volume was compared to the total volume of the product concerned exported by each of the sampled Chinese exporting producers to the Union. On that basis, it was found that the like product was sold in representative quantities on the Japanese market.
- (48) Secondly, the Commission identified the product types sold domestically by the producer in the analogue country that were identical or directly comparable with the types sold for export to the Union by the sampled Chinese exporting producers. It compared on a product type basis the sales volume in Japan with the exports to the Union by each sampled exporting producer. This comparison showed that all product types were sold in representative quantities in Japan.
- (49) The Commission subsequently examined for the analogue country producer whether each type of the like product sold domestically could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if the volume sold at a net sales price equal to or above the calculated cost of production, represents more than 80 % of the total sales volume of that type, and where the weighted average sales price of that product type is equal to or higher than the unit cost of production. For all product types compared, the normal value could be based on the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (50) Finally, the Commission identified the product types exported from the PRC to the Union and not sold in Japan and constructed normal value based on Article 2(3) and (6) of the basic Regulation. To construct normal value for these types, the Commission took the average cost of production of the closest product types produced by the analogue country producer and added a reasonable amount for selling, general and administrative ('SG&A') expenses and profit corresponding to the weighted average amounts realised by the analogue country producer on domestic sales of the like product, in the ordinary course of trade during the investigation period.

### 3.2. Export price

- (51) The three sampled exporting producers exported to the Union either directly to independent customers or through related companies acting as an importer.
- (52) If the exporting producers export the product concerned directly to independent customers in the Union, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

- (53) If the exporting producers export the product concerned to the Union through related companies acting as an importer, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses, and for a reasonable margin of profit.

### 3.3. Comparison

- (54) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.
- (55) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation.
- (56) As regards export prices of the sampled exporting producers, adjustments were made for transport, insurance, handling, credit cost, bank charges and commissions. Concerning domestic prices of the analogue country producer, adjustments were made for domestic transportation costs, credit costs and handling.
- (57) One exporter requested a currency conversion adjustment to the export price on the basis of Article 2(10)(j) of the basic Regulation. This exporting producer entered into forward foreign exchange settlement agreements in order to neutralise the appreciation of its currency vis-à-vis the currencies normally applied to the export sales, namely the euro and the US dollar. However, the investigation showed that there was no direct link between foreign exchange contracts and commercial export sales contract. Therefore, the request was not accepted.
- (58) One sampled exporting producer in the PRC claimed that a series of factors should have been examined in order to determine whether an adjustment was warranted in order to ensure a fair comparison between the export price of the sampled Chinese exporters and the normal value established in Japan. These factors concerned the level of trade, the quantity of the sales, physical quality and branding differences, and differences in costs such as research and development, raw material, fixed costs and tax schemes.
- (59) Concerning the level of trade, no significant difference was found concerning the sales structure or the type of customers of the requesting exporting producer and of the analogue country producer. Similarly, no difference in the physical characteristics of the like product and the product concerned that would justify an adjustment were found to exist. Moreover, the investigation did not find that the brand of the analogue country producer would have an effect on the prices such as to justify an adjustment. The claiming exporting producer did not provide convincing evidence or decisive elements in this sense.
- (60) Concerning the claims on the costs, the investigation confirmed that the analogue country producer switched to a different production method in the past years. However, the investigation did not confirm any significant increase in costs, due to a different production method, which would justify an adjustment.

### 3.4. Dumping margins

- (61) For the sampled cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product in the analogue country (see recitals 46 to 50 above) with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.
- (62) On this basis, the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

| Company                                   | Provisional dumping margin |
|---|----------------------------|
| Changmao Biochemical Engineering Co., Ltd | 284,23 %                   |
| Sinosweet group                           | 275,91 %                   |
| Niutang group                             | 219,17 %                   |

- (63) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the margins of the sampled exporting producers.
- (64) On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample is 262,93 %.
- (65) For all other exporting producers in the country concerned, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total export volume — as reported in Eurostat import statistics — from the country concerned to the Union.
- (66) The level of cooperation is high because the imports of the cooperating exporting producers constituted around 90 % of the total exports to the Union during the investigation period. On this basis, the Commission decided to base the residual dumping margin at the level of the sampled cooperating exporting producer with the highest dumping margin.
- (67) The provisional dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

| Company                                   | Provisional dumping margin |
|---|----------------------------|
| Changmao Biochemical Engineering Co., Ltd | 284,23 %                   |
| Sinosweet group                           | 275,91 %                   |
| Niutang group                             | 219,17 %                   |
| Non-sampled cooperating companies         | 262,93 %                   |
| All other companies                       | 284,23 %                   |

#### 4. INJURY

##### 4.1. Definition of the Union industry and Union production

- (68) The like product was manufactured by one producer in the Union during the investigation period, Ajinomoto Sweeteners Europe SAS ('ASE'). On 15 October 2015 ASE was purchased by Hyet Holding BV and consequently the name of the Union producer has changed to Hyet Sweet SAS ('Hyet'). The new owner has confirmed its full support for the ongoing investigation. Hyet therefore constitutes the Union industry within the meaning of Article 4(1) of the basic Regulation.
- (69) As the Union industry is constituted of only one producer, all figures related to sensitive data had to be indexed or given in a range for reasons of confidentiality.

##### 4.2. Union consumption

- (70) Consumption in the Union was based on the sales of the Union producer and imports from the PRC. Apart from the Union, the PRC and Japan, aspartame is currently only produced in South Korea. The sole producer in the US withdrew from the aspartame market in 2014. Based on the information available <sup>(1)</sup> there were no or only insignificant imports of aspartame into the Union market from Japan, Korea or the US throughout the period considered.

<sup>(1)</sup> Complaint, questionnaire replies of Union producer, users and analogue country producer.

- (71) Currently aspartame is classified in Eurostat under several CN codes containing many other chemicals and for this reason Eurostat data is not suitable for establishing import volumes. The complainant provided statistics on Chinese sales to the Union for the period considered from a Chinese-based research company, CCM Information Science and Technology Co., Ltd ('CCM') <sup>(1)</sup>. This information was cross-checked with the Chinese export database, in which however the relevant data was not available for the whole period considered. Since for 2013, 2014 and the investigation period the figures reported in the two databases matched it was decided to use the data provided by CCM covering the whole period considered.
- (72) Based on the above, the Union consumption developed as follows:

Table 1

**Union consumption (in tons)**

|  | 2011 | 2012 | 2013 | 2014 | IP |
|--|------|------|------|------|----|
| Total Union consumption — <i>Index</i> | 100  | 92   | 95   | 91   | 88 |

Source: Data provided by Union industry from CCM, Chinese export database and verified Union industry questionnaire reply

- (73) Union consumption decreased by 12 % during the period considered. According to market knowledge obtained from the complainant and the users, this is mainly due to health concerns over aspartame, which led to some users switching to other sweeteners such as acesulfame potassium ('ACE-K'), stevia or sucralose.

**4.3. Imports from the PRC****4.3.1. Volume and market share of the imports from the PRC**

- (74) Imports into the Union and market share of the Chinese imports developed as follows:

Table 2

**Import volume (in tons) and market share**

|  | 2011 | 2012 | 2013 | 2014 | IP  |
|--|------|------|------|------|-----|
| Volume of imports from the PRC <sup>(1)</sup> — <i>Index</i> | 100  | 96   | 93   | 95   | 88  |
| Market share of imports from the PRC — <i>Index</i>          | 100  | 105  | 98   | 105  | 100 |

<sup>(1)</sup> Providing absolute figures together with indication of the market share of Chinese imports would reveal the sales data of the sole Union producer.

Source: Data provided by Union producer from CCM and Chinese export-import database

<sup>(1)</sup> CCM Information Science & Technology Co., Ltd is a research company that provides market information, data exploring, data research and consulting services. The company offers database, market reports, trade analysis, newsletters, import and export analysis, and price monitoring reports. It caters to agricultural, chemical, food, pharmaceutical, printing and packaging, and energy industries. [www.cnchemicals.com](http://www.cnchemicals.com)

- (75) Over the period considered import volumes from the PRC decreased by 12 %, the same as the decrease of the overall Union consumption as mentioned in recital 73 above. The market share of the Chinese imports remained stable, in the range of 50 %-70 % of Union consumption throughout the period considered.

#### 4.3.2. Prices of the imports from the PRC

- (76) The average price per ton of imports from the PRC developed as follows:

Table 3

#### CIF import prices from the PRC (EUR/ton)

|                                | 2011       | 2012       | 2013      | 2014      | IP        |
|--------------------------------|------------|------------|-----------|-----------|-----------|
| Weighted average import prices | 10,6       | 11,2       | 10,0      | 9,1       | 9,4       |
| <i>Index</i>                   | <i>100</i> | <i>105</i> | <i>94</i> | <i>86</i> | <i>88</i> |

Source: Statistics provided by the Union producer from CCM and also cross-checked with the verified questionnaire reply of the Chinese exporting producers for the investigation period

- (77) The average prices of imports from the PRC have decreased by 12 % throughout the period considered.

#### 4.3.3. Price undercutting

- (78) The Commission determined the price undercutting during the investigation period by comparing:
- (a) the weighted average sales prices of the Union producer charged to unrelated customers on the Union market for the product types exported to the Union by the Chinese exporting producers, adjusted to an ex-works level, and
  - (b) the corresponding weighted average prices per product type of the imports from the cooperating exporting producers to the first independent customer on the Union market, established on a cost, insurance, freight (CIF) basis, with appropriate adjustments for customs duties of 6,5 % and post-importation costs.
- (79) In order to have sufficient matching between the product types sold by the Union industry and by the Chinese exporting producers the product control number was reduced with the parameters on packaging size and packaging type. The investigation confirmed that the price per ton is not influenced significantly by these two parameters.
- (80) The weighted average Union industry's price per product type was compared with the corresponding weighted average prices per product type of the imports from the cooperating exporting producers. The result of the comparison was expressed as a percentage of the turnover of the Union producer during the investigation period. The Commission found an average undercutting margin of 21,1 %.

### 4.4. Economic situation of the Union industry

#### 4.4.1. General remarks

- (81) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (82) In order to respect confidential business information, it has been necessary to present the information concerning the sole Union producer in an indexed form.

## 4.4.2. Injury indicators

## 4.4.2.1. Production, production capacity and capacity utilisation

- (83) The total Union production, production capacity <sup>(1)</sup> and capacity utilisation developed over the period considered as follows:

Table 4

**Production, production capacity and capacity utilisation**

|                                     | 2011               | 2012 | 2013 | 2014 | IP  |
|-------------------------------------|--------------------|------|------|------|-----|
| Production volume — <i>Index</i>    | 100                | 83   | 76   | 65   | 58  |
| Production capacity — <i>Index</i>  | 100                | 100  | 100  | 100  | 100 |
| Capacity utilisation — <i>Index</i> | 105 <sup>(1)</sup> | 87   | 80   | 68   | 61  |

<sup>(1)</sup> The exceptional 105 % capacity utilisation rate was obtained in 2011 by the fact that production was not halted at all during that calendar year due to high sales volume (Union and export combined).

Source: Data provided by Union industry

- (84) The volume of production of the Union industry decreased consistently and sharply throughout the period considered by 42 %. As from 2013 the Union producer had to introduce two-month shut-downs of the production facilities in order to cut costs as opposed to the standard three weeks per 18 months closure for maintenance.
- (85) The production capacity of the Union industry remained unchanged throughout the period considered and consequently, the capacity utilisation decreased in line with the volume of production.

## 4.4.2.2. Sales volume and market share

- (86) The Union industry's volume of sales in the Union to unrelated customers and its market share developed as shown in the table below:

Table 5

**Sales volume and market share**

|   | 2011 | 2012 | 2013 | 2014 | IP  |
|---|------|------|------|------|-----|
| Sales volume on the Union market — <i>Index</i> | 100  | 85   | 98   | 84   | 88  |
| Market share                                    | 100  | 93   | 103  | 93   | 100 |

Source: Data provided by Union industry

- (87) Over the period considered the volume of sales of the Union industry dropped overall by 12 %. Union consumption decreased by 12 % during the period considered. As it can be seen from the statistics, Chinese sales volume decreased by the same percentage (see recital 74 above) meaning that the Chinese producers and the Union producer shared equally (each by 12 %) the loss in sales due to the fall in Union consumption.

<sup>(1)</sup> Production capacity was established based on continuous production (7/7 and 24/24) with 21 days' maintenance shutdown in every 18 months.



- (88) Consequently, the market share of the Union producer remained stable as well throughout the period considered in the range of 30 % to 50 %.

#### 4.4.2.3. Employment

- (89) Employment, productivity and labour cost developed over the period considered as follows:

Table 6

#### Employment and productivity

|  | 2011 | 2012 | 2013 | 2014 | IP  |
|--|------|------|------|------|-----|
| Number of employees — <i>Index</i>               | 100  | 102  | 98   | 94   | 93  |
| Productivity (ton per employee) — <i>Index</i>   | 100  | 81   | 77   | 69   | 63  |
| Average labour costs per employee — <i>Index</i> | 100  | 98   | 96   | 101  | 102 |

Source: Data provided by Union industry

- (90) From 2011 to the end of the investigation period, the Union industry reduced its personnel by 7 % and in light of the very sharp decline in production as described in recital 84 above, productivity declined by 37 % in total. The Union industry explained that further reduction in the number of employees is difficult due to the continuous production process as well as the applicable severance payments. In any case, the Union industry managed to reduce the total labour costs by the forced shut-down of production and so the average labour costs per employee remained relatively stable during the period considered.

#### 4.4.2.4. Magnitude of the dumping margin and recovery from past dumping

- (91) All dumping margins were significant as indicated in recital 67 above. The impact of the magnitude of the actual margins of dumping on the Union industry was substantial, given the volume and prices of imports from the PRC.
- (92) Anti-dumping duties have never been imposed on aspartame originating in the PRC. Anti-dumping duties on aspartame originating in Japan and the US were imposed in 1991 and have expired a long time ago. Therefore, the assessment of effects of past dumping is not applicable in this case.

#### 4.4.2.5. Prices and factors affecting prices

- (93) The weighted average unit sales price of the Union industry to unrelated customers in the Union developed as follows:

Table 7

#### Sales prices and cost of goods sold of the Union industry

|   | 2011 | 2012 | 2013 | 2014 | IP  |
|---|------|------|------|------|-----|
| Average sales price in the Union — <i>Index</i> | 100  | 97   | 90   | 90   | 93  |
| Cost of goods sold per ton — <i>Index</i>       | 100  | 113  | 107  | 113  | 122 |

Source: Data provided by Union industry

- (94) The Union industry's average selling price of the like product fell by 7 % in the period considered. The price development of raw materials as described in detail in recital 110 partly explains this price decrease however it is not the sole explanation as further discussed in Section 5 below.
- (95) Due to the significant decrease in production volume, the unit cost of the goods sold went up by 22 % during the period considered.

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

- (96) Table 8 below shows the trends of profitability, cash flow, investments and return on investments of the Union industry over the period considered:

Table 8

#### Profitability, cash flow, investments and return on investments

|   | 2011  | 2012  | 2013    | 2014    | IP      |
|---|-------|-------|---------|---------|---------|
| Profitability of sales in the Union to unrelated customers — <i>Index</i> | 100   | 7     | – 11    | – 47    | – 83    |
| Cash flow — <i>Index</i>  | 100   | – 81  | – 17    | – 19    | 73      |
| Investments — <i>Index</i>  | 100   | 101   | 140     | 79      | 79      |
| Return on investments — <i>Index</i>                                      | – 100 | – 575 | – 1 862 | – 1 801 | – 1 513 |

Source: Data provided by Union industry

- (97) The Commission established the profitability of the Union industry by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. As it can be seen from the table above, the profitability of the Union industry sharply declined during the period considered. The big variations in cash flow are closely linked with the changes in inventories. Due to the difficult financial situation of the Union industry, investments and return on investments also decreased significantly during the period considered.
- (98) The Union industry in line with the French GAAP <sup>(1)</sup> made a significant impairment booking in financial year 2012 <sup>(2)</sup>. This impairment was based on a market forecast and consisted of a very significant amount. For the purposes of this investigation however it was decided not to take this exceptional booking into account in order to avoid distorting the trends.

#### 4.4.2.7. Inventories

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

Table 9

#### Inventories

|   | 2011 | 2012 | 2013 | 2014 | IP  |
|---|------|------|------|------|-----|
| Closing stocks — <i>Index</i>                               | 100  | 104  | 104  | 77   | 97  |
| Closing stocks as a percentage of production — <i>Index</i> | 100  | 125  | 138  | 119  | 166 |

Source: Data provided by Union industry

<sup>(1)</sup> Generally accepted accounting principles.

<sup>(2)</sup> The Union industry prepares its books based on financial years. Financial year 2012 means the period from April 2012 to March 2013.

- (100) Although closing stocks fell in the period considered due to the longer shut downs of production facilities in order to cut costs as explained in recital 84 above, as a percentage of production the level of stocks increased significantly compared to production.

#### 4.4.3. Conclusion on injury

- (101) The investigation showed that practically all economic indicators, with the exception of market share which remained stable, deteriorated during the period considered.
- (102) Significant negative trends were observed in the following economic indicators: production volume, capacity utilisation, sales volumes and prices on the Union market, cash flow, investments, employment and productivity. Due to the combined effect of decreased production, leading to an increase in the unit cost of goods sold, and the decreasing sales prices the profitability of the Union industry decreased sharply during the period considered. All these trends signal a clear injurious situation.
- (103) An interested party claimed that the pharmaceutical and food industry are two separate markets and that the Union industry is facing no injury for its sales to the pharmaceutical industry thus the investigation should be limited to the aspartame used for the food and beverage sector. This interested party also claimed that since they are not competing in the pharmaceutical market with the Union industry it shall therefore not be allowed to claim injury for its sales to the pharmaceutical industry.
- (104) In reply to this claim it has to be noted that the investigation showed that the Chinese exporters are able to produce all types of the product concerned including the types intended for the pharmaceutical customers. For the time being however the aspartame consumption of the pharmaceutical sector is very limited and Chinese exporters were not (yet) able to enter in that market. It is important to point out that without the more profitable pharmaceutical sales the injury of the Union industry would have been even more pronounced.
- (105) Most importantly, the investigation confirmed that aspartame sold on the pharmaceutical and on the food market share the same basic physical, technical and chemical characteristics and therefore they are considered one product. For this reason exclusion of aspartame destined for the pharmaceutical sector is not warranted. The differences in prices, mainly due to more stringent certification and control process as well as stricter requirements for production, are taken into account in the product control number which differentiates between aspartame destined for the pharma and food sectors. This differentiation ensures that only the same product types are compared and taken into account for the dumping and injury calculations. On the basis of above, this claim had to be rejected.
- (106) On the basis of all the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

## 5. CAUSATION

- (107) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the country concerned was not attributed to the dumped imports.

### 5.1. Effects of the dumped imports

- (108) All dumping margins found during the investigation period were significant as indicated in recital 67 above. The undercutting margin for the same period was also very high and amounted to 21,1 % as mentioned in recital 80.
- (109) Moreover, the investigation showed that Chinese prices were already lower than those of the Union industry in 2011 and they decreased further by 12 % during the period considered. Given the price pressure exerted by the Chinese exporting producers the Union industry had to reduce its prices and, as from 2013 onwards, was not able to sell at prices allowing it to recover its full costs in particular during the investigation period.

- (110) In order to further analyse the price behaviour of the Chinese exporting producers, the investigation assessed the development of the main raw material prices. Aspartame is produced by mixing two amino acids (L-aspartic and L-phenylalanine) more or less in equal quantities. These two amino acids together represent about 25 % of the total cost of production. The prices of these two raw materials have changed during the period considered by roughly + 3,5 % and – 27 % respectively. This means that the price development of the raw materials could maximally explain only 3 % reduction in the production costs or prices of aspartame as opposed to the 12 % reduction observed in the Chinese import sales price. This confirms the claims of the Union industry that the Chinese exporting producers were practicing a rather aggressive pricing behaviour in the Union market.
- (111) The investigation also showed that Chinese products are massively present in the Union market. Even if their volume did not increase during the period considered but followed the decreasing trend in consumption, their market share remained stable and was significantly higher than that of the Union industry throughout the period considered.
- (112) Given the presence of large volumes of low-priced dumped imports, the Union industry was not able to increase or even to maintain its prices to cover for the full cost of production. In fact, in order to keep customers and production the Union industry was forced to further reduce its prices by 7 % during the period considered making it loss-making as from 2013 onwards. This price decrease as explained in recitals 108-110 was more significant than what could be explained by the development of raw material prices.
- (113) On the basis of the above, the Commission considers that the dumped imports have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

## 5.2. Effects of other factors

### 5.2.1. Export performance of the Union industry

- (114) The volume and average price of exports of the Union industry to unrelated customers developed over the period considered as follows:

Table 10

#### Export performance of the Union industry

|                        | 2011 | 2012 | 2013 | 2014 | IP |
|------------------------|------|------|------|------|----|
| Export volume<br>Index | 100  | 70   | 47   | 36   | 34 |
| Average price<br>Index | 100  | 97   | 90   | 90   | 93 |

Source: Data provided by Union industry

- (115) The export volume of the Union industry declined very sharply, by 66 % during the period considered and the average prices decreased as well by 7 %. The investigation showed that this had a negative impact on production volume (recital 84) and in turn on the cost of goods sold (recital 94). It is thus considered that the poor performance on export markets also contributed to the material injury suffered by the Union industry.
- (116) However, in itself the decrease in export sales volumes and prices was not sufficient to explain the level and intensity of the overall injury suffered by the Union industry. It is important to stress that the Union industry was forced to keep reducing its prices on the Union market despite the worsening cost structure due to the continuous and intense price pressure from the Chinese exporting producers on the Union market as explained in Chapter 5.1.
- (117) The investigation has also revealed that during the investigation period, the share of the production that was exported was substantially smaller than the share of the production sold on the Union market.

- (118) On that basis, it is considered that the decrease in export sales volumes and prices of the Union industry during the period considered did not break the causal link between the Chinese dumped imports and the injury suffered by the Union industry.

#### 5.2.2. Imports from other countries

- (119) As already mentioned above in recital 70, aspartame is currently only produced in Japan, the PRC, South Korea and in the Union. The US had a production plant which, however, ceased operation in 2014. Based on information available, South Korea is also scaling down its production volumes. More importantly, information available suggests <sup>(1)</sup> that imports into the Union from other producers, except those from the PRC, were absent or present in negligible quantities throughout the period considered.
- (120) On these grounds it is concluded that imports from third countries did not have any impact on the injury suffered by the Union industry and therefore could not break the causal link established between the Chinese imports and the injury suffered by the Union industry.

#### 5.2.3. Union consumption

- (121) Union consumption decreased by 12 % during the period considered. As shown in Tables 2 and 5 above, the market share of the Chinese exporting producers and the Union industry remained stable throughout the period considered as the two parties shared equally (each by 12 %) the loss in the sales volume.
- (122) In any case, it is considered that the fall in Union consumption was not as substantial as the losses in production and not sufficient to explain the extent of the injury suffered by the Union producer. It is recalled that sales prices decreased by 7 % and losses in production volume led to higher costs and a highly negative profitability during the investigation period. It is therefore considered that the fall in Union consumption affected negatively the Union industry but was not such as to break the causal link between the Chinese dumped imports and the injury suffered by the Union industry.

#### 5.2.4. Other factors raised by interested parties

- (123) One interested party claimed that the Union producer is selling branded product as opposed to the non-branded sales of the Chinese producers. According to this party, branded products are more noticeable and therefore suffer more from the adverse media campaigns raising possible health concerns and this is the reason from the drop in the sales of the Union industry.
- (124) This claim is highly speculative and not supported by any substantiated evidence. Aspartame is sold to large companies mainly operating in the food and beverage sector and not as a branded product to end-users. The investigation confirmed that aspartame sold by the Union industry and the Chinese imports are completely identical in their physical and chemical characteristics and once the certification process is completed users do not differentiate between the two sources. Therefore, this claim has to be rejected.
- (125) This interested party also alleged that the costs of the Union industry are distorted by purchases of one of the raw materials from a related company. However, the investigation established that the related company sold the raw material on the same prices to the Union industry as to other third unrelated parties, namely at arm's length. Therefore the claim that the Union industry costs are distorted is not confirmed by the findings of the investigation.
- (126) Another interested party contested the causal link based on the argument that the deterioration of the Union industry did not coincide with an increase of volume of dumped imports from the PRC.
- (127) As explained in detail in recitals 108 to 113 above, the injury was caused by the combined effect of significant market share of Chinese imports coupled with their low and decreasing prices. Therefore this claim is rejected.

<sup>(1)</sup> Complaint, questionnaire replies of Union producer, users and analogue country producer.

#### 5.2.5. Conclusion on causation

- (128) The investigation showed that the continuous price pressure of Chinese imports combined with their strong presence on the Union market caused material injury to the Union industry. The already lower prices of Chinese imports decreased by further 12 % during the period considered and this price decrease could only to a small extent be explained by the trends in the raw material prices.
- (129) The injury in this investigation is clear and wide ranging across most of the indicators as described in Chapter 4 above. The continuous and aggressive price pressure exerted by the PRC forced the Union industry to reduce its prices below total cost of production and suffer significant losses, in particular during the investigation period.
- (130) The Commission carefully considered the effects of all known factors that could have an adverse impact on the situation of the Union industry and concluded that they either did not cause any injury (third country exports, branded v non-branded sales, raw material purchase from a related party) or their impact was limited and therefore could not break the causal link between the dumped imports and the injury suffered by the Union industry (decline in Union consumption and export performance of the Union industry).
- (131) It is therefore concluded that Chinese dumped imports caused material injury to the Union industry and that none of the other factors broke this causal link between the Chinese imports and the injury suffered by the Union industry.

### 6. UNION INTEREST

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

#### 6.1. Interest of the Union industry

- (133) The investigation established that the Union industry suffered material injury caused by the dumped imports from the PRC. Almost all injury indicators showed negative trends over the period considered, in particular production volume, sales volume, sales prices and employment. A downward trend was also established for indicators related to the financial performance, such as profitability, cash flow and return on investments.
- (134) Following the imposition of measures, it is expected that the Union industry will be able to increase production and sales volume in a market governed by effective competition. The prices charged by Chinese exporters should increase and the Union industry will be partially relieved from the severe price pressure they currently exert on the Union market.
- (135) In the absence of measures, the situation of the Union industry is very likely to further deteriorate. Further losses of sales volume and market share are very likely to endure, due to the significant price pressure from the low-priced dumped imports. This will force the Union industry to lower its price levels even more and to cease production of aspartame altogether in the medium term, with the consequent loss of employment in the Union.
- (136) The Commission therefore concluded at this stage that the imposition of anti-dumping duties would be in the interest of the Union industry.

#### 6.2. Interest of unrelated importers and distributors

- (137) Two distributors who buy aspartame solely from the Union industry cooperated in the investigation and expressed support for the measures, since they fully rely on the production and sales of the Union industry.

- (138) None of the known importers cooperated in this investigation by providing a questionnaire reply or making any submission in writing. In general, according to market information obtained from the Union industry and a recent investigation on a similar product <sup>(1)</sup>, importers have quite a wide product portfolio out of which aspartame is only one item. In any case, since the measures would not ban imports of aspartame from the PRC but only restore fair competition on the Union market, it is considered that they should not prevent importers from continuing to trade the product concerned on the Union market.
- (139) Therefore, based on the information available, it is considered that the imposition of measures would not be against the interest of distributors and importers in the Union market.

### 6.3. Interest of users

- (140) The Commission contacted all known users of aspartame upon initiation. Five users cooperated in the investigation and provided questionnaire replies. These users represent 5,4 % of the Union consumption. Three out of these users purchased aspartame solely from the Union industry and stated that they are either neutral or would be in favour of the imposition of measures.
- (141) The two users who purchased aspartame from the PRC together bought less than 10 % of the Chinese imports during the investigation period. The verification of their data established that the share of aspartame in their cost of production is below 3 % and that both companies were profitable during the investigation period. The impact of the measures on their overall costs would be maximum 1,5 %.
- (142) Based on this information it is concluded that the imposition of anti-dumping duties would not increase significantly their overall cost of production and that in any event they have some margin for absorbing this additional cost.
- (143) One of the users stressed the importance of dual sourcing, namely the possibility to source aspartame from alternative sources. The purpose of anti-dumping measures is not to foreclose the Union market to importers of aspartame of Chinese origin but to restore effective competition among the different suppliers and operators present in that market. As mentioned in recital 135, not imposing measures is likely to lead to the disappearance of the Union industry and would thus further reduce the already low number of aspartame producers worldwide and therefore make dual sourcing even more difficult to achieve. The Commission therefore concluded that the measures would not endanger the users' need for dual supply.

### 6.4. Conclusion on Union interest

- (144) The imposition of anti-dumping measures can be expected to enable the Union industry to stay in the market and following that to improve its situation. There is a high risk that should measures not be imposed, the Union industry would have to consider withdrawing from the aspartame business in the medium term, resulting in inevitable job losses. No compelling reasons against the imposition were identified from the perspective of importers or users.
- (145) On the basis of the above, the Commission concluded that the measures on imports of aspartame originating in the PRC are in the overall Union interest and that there are no compelling reasons against their imposition.

## 7. PROVISIONAL ANTI-DUMPING MEASURES

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

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

- (147) To determine the level of the injury elimination level, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry.

<sup>(1)</sup> Commission Implementing Regulation (EU) 2015/1963 of 30 October 2015 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of acesulfame potassium originating in the PRC (OJ L 287, 31.10.2015, p. 52).

- (148) Injury would be eliminated if the Union industry was able to cover its costs of production and to obtain a profit before tax on sales of the like product in the Union market that could be reasonably achieved under normal conditions of competition by an industry of this type in the sector, namely in the absence of dumped imports.
- (149) For this reason and in the absence of other reasonable choices the Commission used the average of the profit margins obtained in 2011 and 2012, the first two years of the period considered (in the range between 5 % to 10 %). The reason for this approach was that the 2011 profit on the Union sales was obtained under high capacity utilisation and thus relatively low unit cost of production. In 2012, the situation deteriorated due to the loss of sales and production which led to increased unit cost of production which in turn had a negative effect on profitability. It is considered that the average of the profit margins observed in 2011 and 2012 corresponds to what can be achieved under normal market conditions and effective competition by the Union industry.
- (150) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry per PCN by replacing the actual loss suffered in the investigation period with the target profit margin described above.
- (151) The Commission then determined the injury elimination level on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in the PRC, as established for the price undercutting calculations with the weighted average non-injurious prices of the like product sold by the Union producer on the Union market during the investigation period, on a PCN basis. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF values. The average injury margin per exporting producer was obtained by expressing the sum of the differences found on PCN level as a percentage of their total CIF value.
- (152) The injury elimination level for 'other cooperating companies' and for 'all other companies' is defined in the same manner as the dumping margin for these companies (see recitals 63 to 67).

## 7.2. Provisional measures

- (153) Provisional anti-dumping measures should be imposed on imports of aspartame originating in the PRC in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins. The amount of the duties should be set at the level of the lower of these margins.
- (154) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

| Company                                   | Dumping margin | Injury margin | Provisional anti-dumping duty |
|---|----------------|---------------|-------------------------------|
| Changmao Biochemical Engineering Co., Ltd | 284,23 %       | 55,40 %       | 55,4 %                        |
| Sinosweet group                           | 275,91 %       | 59,40 %       | 59,4 %                        |
| Niutang group                             | 219,17 %       | 59,13 %       | 59,1 %                        |
| All other cooperating companies           | 262,93 %       | 58,86 %       | 58,8 %                        |
| All other companies                       | 284,23 %       | 59,40 %       | 59,4 %                        |

- (155) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are exclusively applicable to imports of the product concerned originating in the country concerned and



produced by the named legal entities. Imports of product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

- (156) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission <sup>(1)</sup>. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.
- (157) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but also to the producers which did not have exports to the Union during the investigation period.

## 8. FINAL PROVISIONS

- (158) In the interests of sound administration, interested parties may submit written comments and/or request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.
- (159) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

### Article 1

1. A provisional anti-dumping duty is imposed on imports of aspartame (N-L- $\alpha$ -Aspartyl-L-phenylalanine-1-methyl ester, 3-amino-N-( $\alpha$ -carbomethoxy-phenethyl)-succinamic acid-N-methyl ester), CAS RN 22839-47-0, originating in the People's Republic of China, currently falling within CN code ex 2924 29 98 (TARIC code 2924 29 98 05).

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

| Company  | Provisional dumping duties | TARIC additional code |
|--|----------------------------|-----------------------|
| Changmao Biochemical Engineering Co., Ltd  | 55,4 %                     | C067                  |
| Sinosweet group:<br>Sinosweet Co., Ltd, Yixing city, Jiangsu Province, the PRC, and<br>Hansweet Co., Ltd, Yixing city, Jiangsu Province, the PRC.  | 59,4 %                     | C068                  |
| Niutang group:<br>Nantong Changhai Food Additive Co., Ltd, Nantong city, the PRC, and<br>Changzhou Niutang Chemical Plant Co., Ltd, Niutang town, Changzhou city, Jiangsu Province, the PRC. | 59,1 %                     | C069                  |

Non-sampled cooperating companies:

|  |        |      |
|--|--------|------|
| Shaoxing Marina Biotechnology Co., Ltd, Shaoxing, Zhejiang Province, the PRC | 58,8 % | C070 |
|--|--------|------|

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

| Company  | Provisional dumping duties | TARIC additional code |
|--|----------------------------|-----------------------|
| Changzhou Guanghui Biotechnology Co., Ltd, Chunjiang Town, Changzhou city, Jiangsu Province, the PRC | 58,8 %                     | C071                  |
| Vitasweet Jiangsu Co., Ltd, Liyang City, Changzhou City, Jiangsu Province, the PRC.                  | 58,8 %                     | C072                  |
| All other companies  | 59,4 %                     | C999                  |

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

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

#### *Article 2*

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

- (a) Request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted;
- (b) Submit their written comments to the Commission; and
- (c) Request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

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

#### *Article 3*

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

Article 1 shall apply for a period of six months.

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

Done at Brussels, 25 February 2016.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

**COMMISSION REGULATION (EU) 2016/263****of 25 February 2016****amending Annex II to Regulation (EC) No 1333/2008 of the European Parliament and of the Council as regards the title of the food category 12.3 Vinegars****(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 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives <sup>(1)</sup>, and in particular Article 10(3),

Whereas:

- (1) Annex II to Regulation (EC) No 1333/2008 lays down a Union list of food additives approved for use in foods and their conditions of use.
- (2) That list may be updated in accordance with the common procedure referred to in Article 3(1) of Regulation (EC) No 1331/2008 of the European Parliament and of the Council <sup>(2)</sup>, either on the initiative of the Commission or following an application.
- (3) The Union list of food additives was established based on food additives permitted for use in foods in accordance with Directives of the European Parliament and of the Council 94/35/EC <sup>(3)</sup>, 94/36/EC <sup>(4)</sup> and 95/2/EC <sup>(5)</sup> and after reviewing their compliance with Articles 6, 7 and 8 of Regulation (EC) No 1333/2008. The Union list includes the food additives on the basis of the categories of food to which they may be added to.
- (4) In Part D of the Union list, food category 12 covers salts, spices, soups, sauces, salads and protein products and includes subcategory 12.3 — vinegars. Part E of the Union list sets out the following authorised additives for food category 12.3: Group I additives, caramels (E 150a-d) and sulphur dioxide — sulphites (E 220-228) only in fermentation vinegar.
- (5) Acetic acid (also used as a food additive E 260) when diluted with water (4-30 % by volume) could be used as a food or food ingredient in the same manner as vinegars from agricultural origin.
- (6) In some Member States only vinegars obtained from the fermentation of agricultural products are allowed to be named 'vinegars'. In other Member States, however, both products obtained from the dilution with water of acetic acid and vinegars obtained from the fermentation of agricultural products are marketed under the name 'vinegar'.
- (7) It followed from the discussions with Member States at the Working Party of Governmental Experts on Additives that there is an equivalent technological need for food additives for diluted acetic acid and for vinegars from agricultural origin. Therefore, it is appropriate to revise the title of food category 12.3 'Vinegars' to specify that it includes diluted acetic acid (diluted with water to 4-30 % by volume) fit for human consumption in order to ensure that there is transparency and legal certainty regarding the use of food additives in that food.
- (8) The Comprehensive European Food Consumption Database <sup>(6)</sup> of the European Food Safety Authority ('the Authority') provides information on food consumption across the European Union. The statistics include the data on food consumption of vinegars from agricultural origin that is taken into account when the Authority

<sup>(1)</sup> OJ L 354, 31.12.2008, p. 16.

<sup>(2)</sup> Regulation (EC) No 1331/2008 of the European Parliament and of the Council of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings (OJ L 354, 31.12.2008, p. 1).

<sup>(3)</sup> European Parliament and Council Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs (OJ L 237, 10.9.1994, p. 3).

<sup>(4)</sup> European Parliament and Council Directive 94/36/EC of 30 June 1994 on colours for use in foodstuffs (OJ L 237, 10.9.1994, p. 13).

<sup>(5)</sup> European Parliament and Council Directive 95/2/EC of 20 February 1995 on food additives other than colours and sweeteners (OJ L 61, 18.3.1995, p. 1).

<sup>(6)</sup> <http://www.efsa.europa.eu/en/food-consumption/comprehensive-database>

performs the exposure assessment. As diluted acetic acid is used in the same manner as vinegars from agricultural origin it is not expected that the proposed amendment as regards the title of the food category 12.3 would have an impact on the exposure to additives authorised for use in that food category.

- (9) Pursuant to Article 3(2) of Regulation (EC) No 1331/2008, the Commission has to seek the opinion of the Authority in order to update the Union list of food additives set out in Annex II to Regulation (EC) No 1333/2008, except where the update in question is not liable to have an effect on human health. Since the inclusion of diluted acetic acid in food category 12.3 in Parts D and E of the Union list of food additives constitutes an update of that list which is not liable to have an effect on human health, it is not necessary to seek the opinion of the Authority.
- (10) Annex II to Regulation (EC) No 1333/2008 should therefore be amended accordingly.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Annex II to Regulation (EC) No 1333/2008 is amended in accordance with the Annex to this Regulation.

#### *Article 2*

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

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

Done at Brussels, 25 February 2016.

*For the Commission*  
*The President*  
Jean-Claude JUNKER

---

#### ANNEX

In Parts D and E of Annex II to Regulation (EC) No 1333/2008, the entry for food category 12.3 is replaced by the following:

|       |  |
|-------|--|
| '12.3 | Vinegars and diluted acetic acid (diluted with water to 4-30 % by volume)' |
|-------|--|

**COMMISSION IMPLEMENTING REGULATION (EU) 2016/264****of 25 February 2016****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 <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:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

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

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

Done at Brussels, 25 February 2016.

*For the Commission,  
On behalf of the President,*

Jerzy PLEWA  
*Director-General for Agriculture and Rural Development*

---

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

<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 (1) | Standard import value |
| 0702 00 00  | IL                     | 236,2                 |
|   | MA                     | 94,1                  |
|   | SN                     | 174,1                 |
|   | TN                     | 107,9                 |
|   | TR                     | 110,0                 |
|   | ZZ                     | 144,5                 |
| 0707 00 05  | MA                     | 83,5                  |
|   | TR                     | 171,2                 |
|   | ZZ                     | 127,4                 |
| 0709 91 00  | TN                     | 173,6                 |
|   | ZZ                     | 173,6                 |
| 0709 93 10  | MA                     | 41,8                  |
|   | TR                     | 158,0                 |
|   | ZZ                     | 99,9                  |
| 0805 10 20  | EG                     | 47,1                  |
|   | IL                     | 64,8                  |
|   | MA                     | 50,6                  |
|   | TN                     | 56,6                  |
|   | TR                     | 63,7                  |
|   | ZZ                     | 56,6                  |
| 0805 20 10  | IL                     | 121,3                 |
|   | MA                     | 89,3                  |
|   | TR                     | 84,6                  |
|   | ZZ                     | 98,4                  |
| 0805 20 30, 0805 20 50,<br>0805 20 70, 0805 20 90 | IL                     | 137,8                 |
|   | JM                     | 161,2                 |
|   | MA                     | 109,3                 |
|   | TR                     | 71,8                  |
|   | US                     | 130,0                 |
|   | ZZ                     | 122,0                 |
|   | EG                     | 90,7                  |
| 0805 50 10  | MA                     | 85,9                  |
|   | TR                     | 88,1                  |
|   | ZZ                     | 88,2                  |

| (EUR/100 kg) |                                   |                       |
|--------------|-----------------------------------|-----------------------|
| CN code      | Third country code <sup>(1)</sup> | Standard import value |
| 0808 10 80   | CL                                | 93,2                  |
|              | US                                | 123,9                 |
|              | ZZ                                | 108,6                 |
| 0808 30 90   | CL                                | 221,4                 |
|              | CN                                | 63,3                  |
|              | TR                                | 156,1                 |
|              | ZA                                | 91,4                  |
|              | ZZ                                | 133,1                 |

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

# DECISIONS

## COMMISSION IMPLEMENTING DECISION (EU) 2016/265

of 25 February 2016

**on the approval of the MELCO Motor Generator as an innovative technology for reducing CO<sub>2</sub> 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 emissions performance standards for new passenger cars as part of the Community's integrated approach to reduce CO<sub>2</sub> emissions from light-duty vehicles <sup>(1)</sup>, and in particular Article 12(4) thereof,

Whereas:

- (1) On 27 May 2015 the supplier Mitsubishi Electric Corporation (MELCO), represented in the Union by Mitsubishi Electric Automotive Europe B.V. (the 'Applicant'), submitted an application for the approval of its second innovative technology: the MELCO motor generator. The completeness of the application was assessed in accordance with Article 4 of Commission Implementing Regulation (EU) No 725/2011 <sup>(2)</sup>. The application was found to be complete and the period granted to the Commission for its assessment of the application, pursuant to Article 10(2) of that Regulation, started on 28 May 2015.
- (2) The application has been assessed in accordance with Article 12 of Regulation (EC) No 443/2009, Implementing Regulation (EU) No 725/2011 and the Technical Guidelines for the preparation of applications for the approval of innovative technologies pursuant to Regulation (EC) No 443/2009 <sup>(3)</sup> (the 'Technical Guidelines'). The information provided in the application demonstrates that the conditions and criteria referred to in Article 12 of Regulation (EC) No 443/2009 and in Articles 2 and 4 of Implementing Regulation (EU) No 725/2011 have been met.
- (3) The MELCO motor generator has a generator function similar to a regular alternator. As compared to a baseline alternator, it reduces stator copper loss by way of an ultra-high fill-factor stator manufactured by an ultra-high density wire winding method and by way of a new 2-way cooling structure. It also reduces stator iron loss by way of a thin and high-grade electromagnetic steel stator core. Finally, it reduces rectification loss by way of a new Metal-Oxide-Semiconductor Field-Effect-Transistor module.
- (4) The Applicant has demonstrated that a motor generator of the kind described in the application was fitted in 3 % or less of all new passenger cars registered in the reference year 2009 in accordance with Article 2(2)(a) of Implementing Regulation (EU) No 725/2011.
- (5) In order to determine the CO<sub>2</sub> savings that the innovative technology will deliver when fitted to a vehicle, it is necessary to define the baseline technology against which the efficiency of the innovative technology should be compared, as provided for in Articles 5 and 8 of Implementing Regulation (EU) No 725/2011. In accordance with the simplified approach chosen by the Applicant and described in the Technical Guidelines, it is appropriate to consider a 12 V alternator with 67 % efficiency as the baseline technology, as designated by the Applicant.
- (6) The Applicant has provided a methodology for testing and calculating the CO<sub>2</sub> reductions which includes formulae that are consistent with the formulae described in the Technical Guidelines for the simplified approach with regard to efficient alternators. In order to accurately determine the statistical significance the formula should

<sup>(1)</sup> OJ L 140, 5.6.2009, p. 1.

<sup>(2)</sup> 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<sub>2</sub> emissions from passenger cars pursuant to Regulation (EC) No 443/2009 of the European Parliament and of the Council (OJ L 194, 26.7.2011, p. 19).

<sup>(3)</sup> <https://circabc.europa.eu/d/a/workspace/SpacesStore/42c4a33e-6fd7-44aa-adac-f28620bd436f/Technical%20Guidelines%20February%202013.pdf>



however also take into account the need to evaluate the mass of the motor generator as compared to the mass of the baseline alternator (i.e. 7 kg). In order to ensure that the same weighting factors and speed points are used, the manufacturer should, for the purpose of certifying the savings, provide evidence that the speed ranges of the MELCO motor generator are consistent with those applicable to alternators. Such methodology will provide results that are verifiable, repeatable and comparable and it is capable of demonstrating in a realistic manner the CO<sub>2</sub> emissions benefits of the innovative technology with strong statistical significance in accordance with Article 6 of Implementing Regulation (EU) No 725/2011.

- (7) Against that background, the Applicant has demonstrated satisfactorily that the emission reduction achieved by the innovative technology is at least 1 g CO<sub>2</sub>/km.
- (8) The savings of the innovative technology may be partially demonstrated on the standard test cycle, and the final total savings for the purpose of the certification of a vehicle fitted with the innovative technology in accordance with Article 11 of Implementing Regulation (EU) No 725/2011 should therefore be determined in accordance with the second subparagraph of Article 8(2) of that Implementing Regulation.
- (9) The verification report established by the accredited technical service UTAC, which is an independent and certified body, supports the findings set out in the application.
- (10) Therefore, no objections should be raised as regards the approval of the innovative technology in question.
- (11) For the purposes of determining the general eco-innovation code to be used in the relevant type approval documents in accordance with Annexes I, VIII and IX to Directive 2007/46/EC of the European Parliament and of the Council <sup>(1)</sup>, the individual code to be used for the innovative technology approved by this Decision should be specified,

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The MELCO motor generator as described in the application submitted by Mitsubishi Electric Automotive Europe B.V., representing Mitsubishi Electric Corporation (MELCO) in the Union, intended for use in vehicles of category M<sub>1</sub> is approved as an innovative technology within the meaning of Article 12 of Regulation (EC) No 443/2009.
2. The CO<sub>2</sub> emissions reduction from the use of the motor generator referred to in paragraph 1 shall be determined using the methodology set out in the Annex.
3. The code of the eco-innovation to be entered into type approval documentation for the innovative technology approved by this Decision shall be '16'.

#### *Article 2*

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

Done at Brussels, 25 February 2016.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

---

<sup>(1)</sup> 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 (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

## ANNEX

## 1. INTRODUCTION

In order to determine the CO<sub>2</sub> savings that can be attributed to the use of the motor generator in an M<sub>1</sub> vehicle, it is necessary to specify the following:

- (1) the testing conditions;
- (2) the test equipment;
- (3) the determination of the efficiency of the innovative technology and the baseline technology;
- (4) the calculation of the CO<sub>2</sub> savings;
- (5) the calculation of the statistical error and significance of the results.

## 2. SYMBOLS, PARAMETERS AND UNITS

**Latin symbols**

$C_{CO_2}$  — CO<sub>2</sub> savings [g CO<sub>2</sub>/km]

CO<sub>2</sub> — Carbon dioxide

CF — Conversion factor (l/100 km) — (g CO<sub>2</sub>/km) [gCO<sub>2</sub>/l] as defined in Table 3

h — Frequency as defined in Table 1

I — Current intensity at which the measurement shall be carried out [A]

m — Number of measurements of the sample

M — Torque [Nm]

n — Rotational frequency [min<sup>-1</sup>] as defined in Table 1

P — Power [W]

$s_{\eta_{MG}}$  — Standard deviation of the motor generator efficiency [%]

$s_{\overline{\eta_{MG}}}$  — Standard deviation of the motor generator efficiency mean [%]

$S_{C_{CO_2}}$  — Standard deviation of the total CO<sub>2</sub> savings [g CO<sub>2</sub>/km]

U — Test voltage at which the measurement shall be carried out [V]

v — Mean driving speed of the New European Driving Cycle (NEDC) [km/h]

$V_{pe}$  — Consumption of effective power [l/kWh] as defined in Table 2

$\frac{\partial C_{CO_2}}{\partial \eta_{MG}}$  — Sensitivity of calculated CO<sub>2</sub> savings related to the efficiency of the motor generator

**Greek symbols**

$\Delta$  — Difference

$\eta_B$  — Baseline alternator efficiency [%]

$\eta_{MG}$  — Motor generator efficiency [%]

$\overline{\eta_{MG_i}}$  — Mean of the motor generator efficiency at operating point i [%]

### Subscripts

Index (i) refers to operating point

Index (j) refers to measurement of the sample

MG — Motor generator

m — Mechanical

RW — Real-world conditions

TA — Type approval conditions

B — Baseline

### 3. TEST CONDITIONS

The testing conditions shall fulfil the requirements specified in ISO 8854:2012 <sup>(1)</sup>.

### 4. TEST EQUIPMENT

The test equipment shall be in accordance with the specifications set out in ISO 8854:2012 <sup>(1)</sup>.

### 5. MEASUREMENTS AND DETERMINATION OF THE EFFICIENCY

The efficiency of the motor generator shall be determined in accordance with ISO 8854:2012, with the exception of the elements specified in the present paragraph.

Evidence shall be provided to the type approval authority that the speed ranges of the motor generator are consistent with those described below. The measurements shall be conducted at different operating points i, as defined in Table 1. The motor generator current intensity is defined as half of the rated current for all operating points. For each speed the voltage and the output current of the motor generator are to be kept constant, the voltage at 14,3 V.

Table 1

#### Operating points

| Operating point<br>i | Holding time<br>[s] | Rotational frequency<br>$n_i$ [min <sup>-1</sup> ] | Frequency<br>$h_i$ |
|----------------------|---------------------|--|--------------------|
| 1                    | 1 200               | 1 800  | 0,25               |
| 2                    | 1 200               | 3 000  | 0,40               |
| 3                    | 600                 | 6 000  | 0,25               |
| 4                    | 300                 | 10 000   | 0,10               |

<sup>(1)</sup> ISO 8854:2012 Road vehicles — Alternators with regulators — Test methods and general requirements  
Reference number ISO 8854:2012, published on 1 June 2012.

The efficiency shall be calculated in accordance with Formula 1.

Formula 1

$$\eta_{MG_i} = \frac{60 \cdot U_i \cdot I_i}{2\pi \cdot M_i \cdot n_i} \cdot 100$$

All efficiency measurements are to be performed consecutively at least five (5) times. The average of the measurements at each operating point ( $\overline{\eta_{MG_i}}$ ) has to be calculated.

The efficiency of the motor generator ( $\eta_{MG}$ ) shall be calculated in accordance with Formula 2.

Formula 2

$$\eta_{MG} = \sum_{i=1}^4 h_i \cdot \overline{\eta_{MG_i}}$$

The motor generator leads to saved mechanical power under real-world conditions ( $\Delta P_{mRW}$ ) and type approval conditions ( $\Delta P_{mTA}$ ) as defined in Formula 3.

Formula 3

$$\Delta P_m = \Delta P_{mRW} - \Delta P_{mTA}$$

Where the saved mechanical power under real-world conditions ( $\Delta P_{mRW}$ ) is calculated in accordance with Formula 4 and the saved mechanical power under type-approval conditions ( $\Delta P_{mTA}$ ) in accordance with Formula 5.

Formula 4

$$\Delta P_{mRW} = \frac{P_{RW}}{\eta_B} - \frac{P_{RW}}{\eta_{MG}}$$

Formula 5

$$\Delta P_{mTA} = \frac{P_{TA}}{\eta_B} - \frac{P_{TA}}{\eta_{MG}}$$

where

$P_{RW}$ : Power requirement under 'real-world' conditions [W], which is 750 W

$P_{TA}$ : Power requirement under type-approval conditions [W], which is 350 W

$\eta_B$ : Efficiency of the baseline alternator [%], which is 67 %

## 6. CALCULATION OF THE CO<sub>2</sub> SAVINGS

The CO<sub>2</sub> savings of the motor generator are to be calculated with the following formula.

Formula 6

$$C_{CO_2} = \Delta P_m \cdot \frac{V_{pe} \cdot CF}{v}$$

where

$v$ : Mean driving speed of the NEDC [km/h], which is 33,58 km/h

$V_{pe}$ : Consumption of effective power [l/kWh] as defined in the following Table 2

Table 2

**Consumption of effective power**

| Type of engine | Consumption of effective power ( $V_{pe}$ )<br>[l/kWh] |
|----------------|--|
| Petrol         | 0,264  |
| Petrol Turbo   | 0,280  |
| Diesel         | 0,220  |

CF: Conversion factor (l/100 km) — (g CO<sub>2</sub>/km) [gCO<sub>2</sub>/l] as defined in the following Table 3

Table 3

**Fuel conversion factor**

| Type of fuel | Conversion factor (l/100 km) — (g CO <sub>2</sub> /km) (CF)<br>[gCO <sub>2</sub> /l] |
|--------------|--|
| Petrol       | 2 330  |
| Diesel       | 2 640  |

## 7. CALCULATION OF THE STATISTICAL ERROR

The statistical errors in the results of the testing methodology caused by the measurements are to be quantified. For each operating point the standard deviation is calculated as defined by the following formula:

Formula 7

$$s_{\overline{\eta_{MG_i}}} = \frac{s_{\eta_{Ei}}}{\sqrt{m}} = \sqrt{\frac{\sum_{j=i}^m (\eta_{MG_{ij}} - \overline{\eta_{MG_i}})^2}{m(m-1)}}$$

The standard deviation of the efficiency value of the motor generator ( $s_{\eta_{MG}}$ ) is calculated in accordance with Formula 8:

Formula 8

$$s_{\eta_{MG}} = \sqrt{\sum_{i=1}^4 h_i \cdot s_{\overline{\eta_{MG_i}}}^2}$$

The standard deviation of the motor generator efficiency ( $s_{\eta_{MG}}$ ) leads to an error in the CO<sub>2</sub> savings ( $s_{C_{CO_2}}$ ). That error is calculated in accordance with Formula 9:

Formula 9

$$s_{C_{CO_2}} = \sqrt{\left(\frac{\partial C_{CO_2}}{\partial \eta_{MG}} \cdot s_{\eta_{MG}}\right)^2} = \frac{(P_{RW} - P_{TA})}{\eta_{MG}^2} \cdot \frac{V_{pe} \cdot CF}{v} \cdot s_{\eta_{MG}}$$

## 8. STATISTICAL SIGNIFICANCE

It has to be demonstrated for each type, variant and version of a vehicle fitted with the motor generator that the error in the CO<sub>2</sub> savings calculated in accordance with Formula 9 is not greater than the difference between the total CO<sub>2</sub> savings and the minimum savings threshold specified in Article 9(1) of Regulation (EU) No 725/2011 (see Formula 10).

Formula 10

$$MT \leq C_{CO_2} - s_{CO_2} - \Delta CO_{2m}$$

where:

MT: Minimum threshold [gCO<sub>2</sub>/km], which is 1 gCO<sub>2</sub>/km

ΔCO<sub>2m</sub>: CO<sub>2</sub> correction coefficient due to the positive mass difference between the motor generator and the baseline alternator. For ΔCO<sub>2m</sub> the data in Table 4 is to be used.

Table 4

**CO<sub>2</sub> correction coefficient due to the extra mass**

| Type of fuel | CO <sub>2</sub> correction coefficient due to the extra mass (ΔCO <sub>2m</sub> )<br>[g CO <sub>2</sub> /km] |
|--------------|--|
| Petrol       | 0,0277 · Δm  |
| Diesel       | 0,0383 · Δm  |

In Table 4 Δm is the extra mass due to the installation of the motor generator. It is the positive difference between the mass of the motor generator and the mass of the baseline alternator. The mass of the baseline alternator is 7 kg.

## 9. THE MOTOR GENERATOR TO BE FITTED IN VEHICLES

The type approval authority is to certify the CO<sub>2</sub> savings based on measurements of the motor generator and the baseline alternator using the test methodology set out in this Annex. Where the CO<sub>2</sub> emission savings are below the threshold specified in Article 9(1), the second subparagraph of Article 11(2) of Regulation (EU) No 725/2011 shall apply.



