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

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/93

of 10 January 2017

entering a name in the register of protected designations of origin and protected geographical indications (Miel Villuercas-Ibores (PDO))

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Spain's application to register the name 'Miel Villuercas-Ibores' was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Miel Villuercas-Ibores' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Miel Villuercas-Ibores' (PDO) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.4. Other products of animal origin (eggs, honey, various dairy products except butter, etc.) as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾.*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*.⁽¹⁾ OJ L 343, 14.12.2012, p. 1.⁽²⁾ OJ C 331, 9.9.2016, p. 7.⁽³⁾ Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

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

Done at Brussels, 10 January 2017.

*For the Commission,
On behalf of the President,
Phil HOGAN
Member of the Commission*

COMMISSION IMPLEMENTING REGULATION (EU) 2017/94**of 19 January 2017****imposing a definitive anti-dumping duty on imports of sodium gluconate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE**1.1. Measures in force**

- (1) Following an anti-dumping investigation ('the original investigation'), the Council by Council Implementing Regulation (EU) No 965/2010 ⁽²⁾, imposed a definitive anti-dumping duty on imports of sodium gluconate with a Customs Union and Statistics (CUS) number 0023277-9 and a Chemical Abstracts Service (CAS) registry number 527-07-1, currently falling within CN code ex 2918 16 00 (TARIC code 2918 16 00 10) ('sodium gluconate') and originating in the People's Republic of China ('the PRC' or 'the country concerned').
- (2) The original measures took the form of an *ad valorem* duty established at 53,2 % with the exception of Shandong Kaisan Biochemical Co., Ltd (5,6 %) and Qingdao Kehai Biochemistry Co., Ltd (27,1 %).

1.2. Request for an expiry review

- (3) Following the publication of a notice of impending expiry ⁽³⁾ of the existing measures, the Commission received on 1 July 2015 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 ⁽⁴⁾.
- (4) The request was lodged by the two Union producers, Jungbunzlauer S.A and Roquette Italia S.p.A. ('the applicants').
- (5) The request was based on the grounds that the expiry of the measures would likely result in a continuation of dumping and a continuation or recurrence of injury to the Union industry.

1.3. Initiation

- (6) On 27 October 2015, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of sodium gluconate originating in the PRC on the basis of Article 11(2) of Regulation (EC) No 1225/2009. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽⁵⁾ ('the Notice of Initiation').

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Implementing Regulation (EU) No 965/2010 of 25 October 2010 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of sodium gluconate originating in the People's Republic of China (OJ L 282, 28.10.2010, p. 24).

⁽³⁾ OJ C 47, 10.2.2015, p. 3.

⁽⁴⁾ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51). This Regulation has been codified by the basic Regulation.

⁽⁵⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of Sodium Gluconate originating in the People's Republic of China (OJ C 355, 27.10.2015, p. 18).

1.4. Analogue country

- (7) The Commission stated in the Notice of Initiation that it envisaged using the United States of America ('USA') as a third market economy country ('analogue market'), as in the original investigation, within the meaning of Article 2(7)(a) of the basic Regulation. The Commission invited parties to make comments on the appropriateness of this choice. None of the parties provided any comments.
- (8) The Commission sought information concerning producers of sodium gluconate in other potential analogue countries and contacted Canada, India, Japan, Pakistan, Serbia, South Africa, South Korea, Switzerland and USA inviting all known producers of sodium gluconate in these countries to provide the necessary information. One Canadian company replied saying that it was not a producer of sodium gluconate but a trader. Only one American producer submitted a questionnaire reply and accepted a verification visit.

1.5. Interested parties

- (9) 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 known Union producers, known exporting producers, the Chinese authorities, known importers and users about the initiation of the investigation and invited them to participate.
- (10) Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limits set out in the Notice of Initiation. All interested parties, who requested so and showed that there were particular reasons why they should be heard, were granted a hearing. Interested parties were also granted 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.

(a) *Sampling*

- (11) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

Sampling of exporting producers in the PRC

- (12) To decide whether sampling is 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 People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (13) Only one exporting producer in the country concerned provided the requested information and agreed to be included in the sample. Therefore, sampling was not necessary.

Sampling of importers

- (14) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked four known unrelated importers to provide the information specified in the Notice of Initiation.
- (15) Two unrelated importers provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary.

(b) *Replies to the questionnaire*

- (16) The Commission sent questionnaires to two Union producers, two unrelated importers, eight known users, ten wholesalers, the Chinese exporting producer that came forward during the sampling exercise and one producer in the USA that was considered as the analogue market.
- (17) Questionnaire replies were received from two Union producers, two unrelated importers, one user, five wholesalers, the Chinese exporting producer and the producer in the analogue market.

(c) **Verification visits**

- (18) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

- Jungbunzlauer SA, Marckolsheim, France and one related company
- Roquette Italy SpA, Cassano Spinola, Italy

Importers

- Ceda Chemicals Limited, Knutsford, United Kingdom
- Norkem Limited, Knutsford, United Kingdom

Exporting producer in the PRC

- Shandong Kaisen Biochemical Co., Ltd ('SKB'), Rizhao City, Shandong Province, the PRC

Producer in the analogue country

- PMP Fermentation Products, Inc, Peoria, United States of America.

1.6. Investigation period and period considered

- (19) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 October 2014 to 30 September 2015 ('the review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2012 to the end of the review investigation period ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (20) The product subject to this review is dry sodium gluconate, with a Customs Union and Statistics (CUS) number 0023277-9 and a Chemical Abstracts Service (CAS) registry number 527-07-1 and originating in the PRC ('the product under review' or 'sodium gluconate'), currently falling within CN code ex 2918 16 00 (TARIC code 2918 16 00 10).
- (21) Dry sodium gluconate is used mainly in the construction industry as a set retarder and concrete plasticiser and in other industries as surface treatment for metals (removal of rust, oxides and fat) and for the cleaning of bottles and industrial equipment. The product can also be used in the food and pharmaceutical industries.
- (22) The product concerned includes several types, defined in the questionnaire as product control numbers ('PCN'). Each PCN takes into account the purity, particle size and packaging, as established in the original investigation.

2.2. Like product

- (23) The investigation has shown that dry sodium gluconate produced and sold by the Union industry in the Union, dry sodium gluconate produced and sold on the domestic market in the USA, which was selected as an analogue country as explained in recitals 60 to 62, dry sodium gluconate produced and sold on the domestic market in China and dry sodium gluconate produced in China and sold to the Union have essentially the same basic physical and technical characteristics and uses.

- (24) The Commission therefore concluded that these products are alike within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

3.1. Preliminary remarks

- (25) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.
- (26) As mentioned above in recital 13 only one Chinese exporting producer cooperated in the current investigation. This company covered the totality of the exports of sodium gluconate from the PRC into the Union during the RIP. Therefore, the Commission considered that it has sufficient information for the assessment of the export price and the dumping margin during the RIP (section 3.2).
- (27) However, this exporting producer only represented between 2 % and 7 % of the total production capacity and only between 5 % and 10 % of the total production of sodium gluconate in the PRC. Moreover, its exports to third countries ranged only between 23 % and 28 % of total exports from the PRC to third countries during the RIP (the exact weight of the sole cooperating Chinese exporting producer in the total Chinese production capacity, total production and total exports cannot be disclosed for confidentiality reasons). Therefore, and considering that none of the other Chinese producers of sodium gluconate in the PRC cooperated, the Commission considered that it did not have sufficient information for the examination of the likelihood of continuation or recurrence of dumping and use had to be made of facts available in accordance with Article 18 of the basic Regulation in order to assess the development of imports should measures be repealed (section 3.3).
- (28) The Chinese authorities were duly informed that due to the low cooperation of the Chinese exporting producers, the Commission may apply Article 18 of the basic Regulation. No comments were received in this respect.
- (29) The findings in section 3.3 were thus based on facts available. For this purpose, the information provided by the cooperating exporting producer, the request for the expiry review, the submission made by the applicants, Eurostat statistics, the data collected by Member States pursuant to Article 14(6) of the basic Regulation (the 'Article 14(6) database') and publicly available information on internet ⁽¹⁾ were used. Regarding the Chinese Export Statistics Database, the coding structure for sodium gluconate covered other products not subject to the current investigation and therefore the volume of sodium gluconate in isolation could not be identified in the database. Therefore, this source of information could not be used.

3.2. Dumping in the Union during the review investigation period

3.2.1. Normal value

- (30) In the original investigation Market Economy Treatment ('MET') was granted to the sole Chinese exporting producer cooperating in the current investigation (Shandong Kaison Biochemicals or 'SKB'). Therefore, the determination of the normal value for this exporting producer was based on its own production and sales data.
- (31) The Commission first examined whether the total volume of domestic sales for the cooperating exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market of the exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the RIP. The total sales volume of the cooperating exporting producer of the like product on the domestic market was thus representative.
- (32) The Commission subsequently identified the product types sold domestically identical or comparable with the product types sold for export to the Union.

⁽¹⁾ <https://www.prlog.org/12459353-sodium-gluconate-producers-in-china-see-sharp-increase-in-exports-in-2014.html>

- (33) The Commission then examined whether the domestic sales by the cooperating exporting producer on its domestic market for each product type as referred to in recital 22, identical or comparable with a product type sold for export to the Union, were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the RIP represents at least 5 % of the total volume of export sales to the Union. The Commission established that for one product type there were no domestic sales due to a difference in packaging while for the other product types the domestic sales were representative.
- (34) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the RIP in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (35) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
 - (b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (36) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the RIP.
- (37) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the RIP, if:
- (a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or
 - (b) the weighted average price of this product type is below the unit cost of production.
- (38) The analysis of domestic sales showed that between 18 % and 23 % of all domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of the profitable sales only.
- (39) For the one product type without domestic sales in the ordinary course of trade, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (40) Normal value was constructed by adding the following to the average cost of production of the like product of the cooperating exporting producer during the RIP:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the RIP; and
 - (b) the weighted average profit realised by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the RIP.

3.2.2. *Export price*

- (41) The sole cooperating exporting producer exported to the Union directly to independent customers. Therefore, 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.

3.2.3. *Comparison*

- (42) The Commission compared the normal value and the export price on an ex-works basis.

- (43) 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. Adjustments were made for handling, loading and ancillary expenses in the country concerned, transport costs (domestic and ocean freight), insurance costs, packaging costs, credit costs and non-refundable VAT.

3.2.4. Dumping margin

- (44) The Commission compared the weighted average normal value of each type of the like product 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.
- (45) On this basis, the weighted average dumping margin established expressed as a percentage of the CIF Union frontier price, duty unpaid, was 2,6 % during the RIP. The level of this dumping margin should be seen in correlation with the fact that during the RIP, exports from the PRC to the Union market were only made by the sole Chinese exporting producer that received MET in the original investigation as explained in recitals 26 and 30.

3.3. Development of imports should measures be repealed

- (46) Further to the finding of dumping during the RIP, the Commission analysed whether there was a likelihood of a continuation of dumping should the measures be allowed to lapse. The following elements were analysed: the production capacity and spare capacity in the PRC, the development of demand in the PRC, the exports from the PRC to other third countries, the dumping margin of Chinese exports in other third countries and the attractiveness of the Union market.
- (47) As mentioned in recitals 27 to 29, only one exporting producer in the PRC cooperated. The findings in below sections were therefore based on facts available in accordance with Article 18 of the basic Regulation. In this regard, the Commission used the information provided by the cooperating exporting producer, the request for the expiry review, the submission made by the applicants, Eurostat statistics, the data collected by Member States pursuant to Article 14(6) of the basic Regulation (the 'Article 14(6) database') and publicly available information on internet were used as explained in recital 29.
- (48) It is recalled that during the period considered of the original investigation, import volumes increased by 77 % which in absolute terms corresponded to an increase of 1 774 tonnes (from 2 291 tonnes in 2005 to 4 095 tonnes during the investigation period of the original investigation). The corresponding Chinese market share increased from 12,8 % to a level of 24,9 % at the end of the investigation period of the original investigation before the imposition of measures.

3.3.1. Production capacity, spare capacity and development of demand in the PRC

- (49) The production capacity of the sole cooperating Chinese exporter was three times the Union consumption during the RIP. Its capacity utilisation rate was found to range between 75 % and 80 %. It follows that the spare capacity of this company alone is more than half the Union consumption.
- (50) In addition, based on the information submitted in the request and cross checked with public available information mentioned in recital 29, sodium gluconate is manufactured by 40 producers in the PRC with a total production capacity ranging between 1 000 000 and 1 200 000 tonnes in 2014, which represented an increase of about 50 % as compared to 2010. In 2014, Chinese producers used only about half of their capacity as they produced only around 550 000 tonnes.
- (51) According to the expiry review request, the Chinese demand on the domestic market was estimated to range between 400 000 tonnes to 500 000 tonnes in 2014, which leaves a capacity of around 600 000 to 700 000 tonnes available for exports. The consumption in the Union was between 16 000 and 22 000 tonnes during the RIP meaning that the spare capacity in the PRC is around 30 times the consumption of sodium gluconate in the Union.

- (52) Demand in the PRC for sodium gluconate is largely determined by the construction industry. The construction industry uses it as concrete additive produced from sodium gluconate. It is not excluded that consumption of sodium gluconate in the Chinese domestic market may increase under the perspective of a growing construction industry in the PRC. However, the spare capacity in the PRC exceeds significantly the Union consumption and therefore, even under the perspective of a growing domestic consumption in the PRC, it is likely that spare capacity will still remain significant with a large potential for export to the Union market.

3.3.2. *Export volume and prices to other third countries*

- (53) For the reasons set out in recital 29, the Chinese database could not be used to analyse the Chinese exports of sodium gluconate to other third countries.
- (54) Based on the information submitted in the request, adjusted where necessary, and cross checked with public available information as described in recital 29, it was established that the Chinese export volume to other third countries overall increased by about 45 % between 2012 and 2014 reaching around 116 000 tonnes in 2014.
- (55) No public information on the average Chinese export prices to other third country markets was available. The prices to other third countries of the sole Chinese cooperating producer showed a decreasing trend between 2012 and 2014 from between 600 to 660 EUR/tonne in 2012 to between 500 and 550 EUR/tonne in 2014. In the RIP, the export prices of the sole Chinese cooperating producer increased as compared to 2014, slightly exceeding EUR 600/tonne. These prices were in line with the Chinese export prices to other third countries submitted by the applicants, with the exception of the RIP for which the applicants submitted that the Chinese prices to other third countries continued to decrease to a level between EUR 539 and 583/tonne.

3.3.3. *Dumping to other third countries*

- (56) For the reasons explained in recital 27, facts available in accordance with Article 18 of the basic Regulation were used with regard to the analysis of the likely continuation of dumping should the measures be allowed to lapse.
- (57) While public information on Chinese export prices to other third country markets were not available, the applicants provided information that showed that the average prices of all other Chinese exporting producers to other third countries were in line with the average export price of the sole cooperating Chinese exporting producer to other third countries, as described in recital 55.
- (58) In order to assess the dumping practices of the Chinese exporting producers to other third countries, the Commission has carried out two dumping margin calculations, one using the average export price of the Chinese exporting producers to other third countries submitted by the applicants and another one using the detailed export transactions submitted by SKB (the only Chinese cooperating exporting producer) in its reply to the anti-dumping questionnaire for its five largest export markets as a benchmark for the exports of the other Chinese exporting producers.
- (59) In this regard, it is recalled that during the original investigation the cooperating exporting producer was the only company that was granted MET. It follows that for the other Chinese exporting producers normal value should be calculated according to Article 2(7)(a) of the basic Regulation, that is on the basis of the price or constructed value in a market economy third country ('the analogue country'). For this purpose, an analogue country had to be selected.
- (60) As mentioned in recital 8, only the producer in the USA cooperated with the investigation by submitting a full questionnaire response and accepting a verification visit.
- (61) The Commission found that the USA met the criteria for an appropriate analogue country since the quantities sold in this market were sufficiently large and there was significant competition on the market between domestic production and imports from other countries, i.e. the PRC, Italy and France. In addition, the USA had no anti-dumping duty on the product concerned.

- (62) In view of the above, it was concluded that the USA constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation and the information received from the sole 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 in the original investigation.
- (63) As regards the first dumping calculation referred to in recital 58, the Commission compared the weighted average normal value of the sole cooperating producer in the analogue country with the average export price of the Chinese exporting producers submitted by the applicants on an ex-works level in accordance with Article 2(11) and (12) of the basic Regulation. 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. Adjustments were made for transport costs, handling and ancillary expense, packaging costs, non-refundable VAT, estimated based on the questionnaire reply of the cooperating exporting producer in the PRC.
- (64) On this basis, the Chinese exports to other third countries were found to be dumped at a level higher than 70 %.
- (65) As concerns the other dumping calculation referred to in recital 58 which, for the reasons set out in recital 57, uses the detailed export transactions submitted by SKB in its reply to the anti-dumping questionnaire for its five largest export markets as a benchmark for the exports of the other Chinese exporting producers, the normal value was calculated as explained in recitals 59 to 63.
- (66) The export price was the price actually paid or payable for the product concerned when sold for export to the five largest third countries, in accordance with Article 2(8) of the basic Regulation.
- (67) The Commission compared the weighted average normal value of each type of the like product with the weighted average export price to the five largest other third countries of the corresponding type of the product concerned on an ex-works level in accordance with Article 2(11) and (12) of the basic Regulation. 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.
- (68) Adjustments were made for handling, loading and ancillary expenses in the country concerned, transport costs (domestic and ocean freight), insurance costs, packaging costs, credit costs and non-refundable VAT.
- (69) On this basis, the Chinese exports to other third countries were found to be dumped at a level of around 50 %.
- (70) Moreover, for the sake of completeness and comparison a dumping margin has been calculated also for the exports of SKB to other third country markets using its own data. A dumping margin amounting to around 8,3 % was thus established.
- (71) The difference between the dumping margins from recitals 64 and 69 and those from recitals 45 and 70 is explained by the fact that the former are based on normal value data from the analogue market as explained in recital 59 while the latter, established for the sole cooperating Chinese exporting producer was based on the normal value determined on its own production and sales data as it was granted MET in the original investigation as explained in recitals 30 to 40. In addition the dumping margin calculated for the sole cooperating Chinese exporting producer during the RIP in recital 45 relates to exports to the Union market where higher prices prevailed, whereas all other dumping margins calculated relate to exports to other third country markets.
- (72) The Chinese dumping practises established in other third countries are a strong indication of the likely price behaviour of the Chinese exporting producers in the Union should the measures be allowed to lapse.

3.3.4. *Attractiveness of the Union market*

- (73) To assess the attractiveness of the Union market and the likelihood that exports from the PRC will be directed to the Union market should the measures be allowed to lapse, Chinese exports to other third country markets in terms of volumes and prices have been analysed as well as the prices in the Chinese domestic market in comparison to average prices in the Union market.

- (74) The Chinese export volume to other third countries overall increased by around 45 % between 2012 and 2014 reaching around 116 000 tonnes in 2014.
- (75) As concerns domestic prices, as explained in recitals 27 to 29 above, in the absence of any other information, the domestic prices of the sole cooperating Chinese exporting producer were used as a benchmark. The comparison shows that the average prices in the Union market were between 43 % and 55 % higher than the average domestic prices in the PRC in 2014 and between 27 % and 35 % higher than the average domestic prices in the PRC during the RIP.
- (76) As concerns the Chinese export prices to other third countries, based on the data submitted by the applicants, these were found to be in line with the export prices to other third countries of the sole cooperating Chinese exporting producer as explained in recital 55. The average prices in the Union market were found to be on average between 25 % and 45 % higher than the Chinese export prices to other third country markets in 2014 and between 20 % and 40 % higher than the Chinese export prices to other third country markets in the RIP. Concerning the price levels to other third countries of the sole cooperating Chinese exporter in the RIP these were lower than the Union industry prices by between 20 % and 30 %.
- (77) These significantly higher price levels make the Union market attractive for Chinese exporters should the anti-dumping measures be repealed.
- (78) The interest of Chinese exporting producers to export to the Union market is also confirmed by the constant presence of SKB in the Union market. Despite the measures in place, this company almost doubled its export volumes to the Union and increased its market share by around 50 % between the investigation period of the original investigation and the current RIP.

3.3.5. Conclusion on the likelihood of continuation of dumping

- (79) In light of the estimated significant spare capacity in the PRC which could be used for exports to the Union at dumped prices, taking into account the attractiveness of the Union market and the price behaviour of the Chinese exporters on other third country markets, the Commission concluded that there is a strong likelihood that the repeal of the anti-dumping measures would result in an increase in significant volumes of dumped imports of sodium gluconate from the PRC to the Union.

4. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF INJURY

4.1. Definition of the Union industry and Union production

- (80) The cooperating Union producers Jungbunzlauer SA and Roquette Italia S.p.A. accounted for 100 % of the Union production.
- (81) They are therefore deemed to constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (82) As the Union industry is constituted of only two producers, all figures related to sensitive company specific data had to be indexed or given in a range for reasons of confidentiality.

4.2. Union consumption

- (83) The Commission established the Union consumption on the basis of the total sales volume of the Union industry on the Union market obtained after verification of the questionnaire replies of the two Union producers, on the basis of the total import volume as available in Eurostat and from the verified data of the cooperating Chinese exporting producer.

- (84) The Union consumption developed as follows:

Table 1

Union consumption

| | 2012 | 2013 | 2014 | RIP |
|----------------------------------|---------------|---------------|---------------|---------------|
| Total Union consumption (tonnes) | 13 000-19 000 | 14 000-20 000 | 16 000-22 000 | 16 000-22 000 |
| <i>Index (2012 = 100)</i> | 100 | 109 | 119 | 122 |

Source: Questionnaire replies and Eurostat.

- (85) The Union consumption increased continuously and overall by 22 % over the period considered.

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

- (86) The Commission established the volume of imports on the basis of Eurostat and the verified questionnaire reply of the cooperating Chinese exporting producer which accounted for 100 % of the total Chinese imports during the RIP.
- (87) Imports into the Union from the country concerned developed as follows:

Table 2

Import volume and market share

| | 2012 | 2013 | 2014 | RIP |
|---------------------------|-----------|-----------|-----------|-----------|
| Chinese imports (tonnes) | 500-2 500 | 500-2 500 | 500-2 500 | 500-2 500 |
| <i>Index (2012 = 100)</i> | 100 | 110 | 122 | 109 |
| Chinese market share (%) | 4-16 | 4-16 | 4-16 | 3-15 |
| <i>Index (2012 = 100)</i> | 100 | 100 | 103 | 89 |

Source: Questionnaire replies and Eurostat.

- (88) Over the period considered, the Chinese import volume increased overall by 9 %. It increased first between 2012 and 2014 by 22 % and decreased in the RIP by 13 %. However, since the Chinese imports only partially followed the increase in Union consumption, the development of the Chinese market share followed a different trend. Thus, it remained stable between 2012 and 2013, increased slightly in 2014 (i.e. by 3 %) and decreased from 2014 to the RIP by 14 %. Overall, the Chinese market share decreased by 11 % over the period considered. However, as indicated in recital 78, the sole cooperating Chinese exporting producer managed to double its export volume to the Union and to increase its market share by 50 % in comparison to the investigation period of the original investigation and at dumped price levels

4.3.2. Prices of the imports from the country concerned and price undercutting

- (89) The Commission established the trend of the prices of Chinese imports on the basis of Eurostat

- (90) The average price of imports into the Union from the country concerned developed as follows:

Table 3

Import prices (EUR/tonne)

| | 2012 | 2013 | 2014 | RIP |
|-----------------------------------|---------|---------|---------|---------|
| Chinese import prices (EUR/tonne) | 680-750 | 600-670 | 600-670 | 670-740 |
| <i>Index (2012 = 100)</i> | 100 | 89 | 89 | 98 |

Source: Eurostat.

- (91) Overall, average import prices decreased by 2 % over the period considered. Import prices decreased by 11 % between 2012 and 2013, remained at the same level in 2014 and increased by 9 % during the RIP.
- (92) The Commission determined the price undercutting of the cooperating exporting producer during the RIP by comparing:
- the weighted average sales prices per product type of the Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level, and
 - the corresponding weighted average prices per product type of the imports to the first independent customer on the Union market, established on a Cost, insurance, freight ('CIF') basis, with appropriate adjustments for anti-dumping and customs duties and for post-importation.
- (93) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the Union industry average weighted price during the RIP. It showed that for the cooperating exporting producer there was no undercutting during the RIP even when anti-dumping duties are not taken into account. The cooperating exporting producer, however, though it covered 100 % of the Chinese imports in the RIP, represented only between 2 % and 7 % of the total Chinese production capacity.

4.4. Imports from other third countries

- (94) Imports into the Union from third countries other than the country concerned developed as follows:

Table 4

Market share other third countries

| | 2012 | 2013 | 2014 | RIP |
|---------------------------|-------|-------|-------|-------|
| Imports (tonnes) | 0-300 | 0-500 | 0-400 | 0-300 |
| <i>Index (2012 = 100)</i> | 100 | 582 | 256 | 132 |
| Market share (%) | 0-1 | 1-2 | 0-1 | 0-1 |
| <i>Index (2012 = 100)</i> | 100 | 543 | 217 | 109 |

Source: Eurostat.

- (95) The market share of imports from third countries represented at most 2 % during the period considered and less than 1 % during the RIP.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (96) 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. The Commission evaluated these indicators on the basis of the verified questionnaire replies of the Union producers.

4.5.2. Injury indicators

4.5.2.1. Production, production capacity and capacity utilisation

- (97) The total Union production, production capacity and capacity utilisation developed over the period considered as follows:

Table 5

Production, production capacity and capacity utilisation

| | 2012 | 2013 | 2014 | RIP |
|------------------------------|---------------|---------------|---------------|---------------|
| Production (tonnes) | 38 000-58 000 | 33 000-53 000 | 34 000-54 000 | 35 000-55 000 |
| Index (2012 = 100) | 100 | 90 | 92 | 94 |
| Production capacity (tonnes) | 50 000-70 000 | 50 000-70 000 | 50 000-70 000 | 50 000-70 000 |
| Index (2012 = 100) | 100 | 100 | 100 | 100 |
| Capacity utilisation (%) | 70-90 | 65-85 | 65-85 | 65-85 |
| Index (2012 = 100) | 100 | 90 | 92 | 94 |

Source: Questionnaire replies.

- (98) Production volume decreased between 2012 and 2013 by 10 %, then increased slightly from 2014 to the RIP. Overall, production volume decreased by 6 % during the period considered. This decrease in production is explained by a decrease of between 30 % and 40 % in export volumes over the period considered, which was only partially compensated by the increase in domestic sales reported in table 6.
- (99) The production capacity remained unchanged during the entire period considered.

4.5.2.2. Sales volume, market share and captive use

- (100) The Union industry's sales volume and market share developed over the period considered as follows:

Table 6

Sales volume and market share

| | 2012 | 2013 | 2014 | RIP |
|---|---------------|---------------|---------------|---------------|
| Sales volume on the Union market (tonnes) | 11 500-17 500 | 12 500-18 500 | 14 000-20 000 | 15 000-21 000 |
| Index (2012 = 100) | 100 | 107 | 118 | 123 |

| | 2012 | 2013 | 2014 | RIP |
|------------------------------------|-------|-------|-------|-------|
| Market share of Union industry (%) | 84-96 | 84-96 | 84-96 | 85-97 |
| <i>Index (2012 = 100)</i> | 100 | 100 | 100 | 101 |

Source: Questionnaire replies and Eurostat.

- (101) The Union industry managed to follow the increase in Union consumption by increasing its sales volume continuously and overall by 23 % over the period considered.
- (102) Since the sales volume closely followed the trend observed in Union consumption, the market share of the Union industry remained unchanged from 2012 to 2014 and only slightly increased by 1 % during the RIP.
- (103) The captive use which was practically constant throughout the period considered as shown in the table below did not affect the trend observed in respect of production and capacity utilisation.

Table 7

Captive use

| | 2012 | 2013 | 2014 | RIP |
|---------------------------|--------------|--------------|--------------|--------------|
| Captive use (tonnes) | 9 000-19 000 | 9 000-19 000 | 9 000-19 000 | 9 000-19 000 |
| <i>Index (2012 = 100)</i> | 100 | 100 | 100 | 101 |

Source: Questionnaire replies.

4.5.2.3. Growth

- (104) The domestic sales volume of the Union industry followed closely the evolution of the domestic consumption and increased by 23 % over the period considered. As a consequence, the Union industry maintained a stable level of market share throughout the period considered.

4.5.2.4. Employment and productivity

- (105) Employment and productivity developed over the period considered as follows:

Table 8

Employment and productivity

| | 2012 | 2013 | 2014 | RIP |
|--------------------------------|-----------|-----------|-----------|-----------|
| Number of employees | 0-100 | 0-100 | 0-100 | 0-100 |
| <i>Index (2012 = 100)</i> | 100 | 99 | 101 | 103 |
| Productivity (tonnes/employee) | 500-1 500 | 500-1 500 | 500-1 500 | 500-1 500 |
| <i>Index (2012 = 100)</i> | 100 | 91 | 91 | 91 |

Source: Questionnaire replies.

- (106) The number of employees in the Union industry remained almost unchanged during the entire period considered. As a result of the decrease in production and the stable employment, productivity decreased over the period considered.
- (107) The investigation showed that due to the high degree of automation it would not be possible for the Union industry to decrease the number of employees in proportion of the decrease in production.

4.5.2.5. Magnitude of the dumping margin and recovery from past dumping

- (108) The investigation established in recital 45 that imports of sodium gluconate from the PRC continued to enter the Union market at dumped prices.
- (109) The Union industry was able to benefit from the anti-dumping measures in force and started to recover from the past dumping. It indeed increased its sale volume by 23 % and its market share by 1 % over the period considered. However the recovery from the past dumping cannot be considered as consolidated in particular in view of the development of the profitability as described in recital 123, which remained negative in 2012 and 2013 and turned positive only during the RIP.

4.5.2.6. Prices and factors affecting prices

- (110) The weighted average unit sales prices of the Union producers to unrelated customers in the Union developed over the period considered as follows:

Table 9

Sales prices in the Union and unit cost of production

| | 2012 | 2013 | 2014 | RIP |
|---|---------|---------|---------|---------|
| Average unit sales price in the Union (EUR/tonne) | 740-810 | 730-800 | 700-770 | 700-770 |
| Index (2012 = 100) | 100 | 99 | 94 | 95 |

Source: Questionnaire replies.

- (111) The average sales prices of the Union industry decreased by 5 % over the period considered. Prices decreased continuously between 2012 and 2014 and only slightly increased during the RIP.
- (112) The cost of production of the Union industry developed over the period considered as follows:

Table 10

Unit cost of production

| | 2012 | 2013 | 2014 | RIP |
|-------------------------------------|------|------|------|-----|
| Unit cost of production (EUR/tonne) | | | | |
| Index (2012 = 100) | 100 | 98 | 86 | 80 |

Source: Questionnaire replies.

- (113) Over the period considered the unit cost of production decreased by 20 %. This was in part due to the decrease in price of raw materials, as described in more detail in recital 114 below, and in part to cost savings that resulted in a decrease of various components of the total cost of production, in particular the maintenance expenses were drastically reduced over the period considered.
- (114) Depending on the degree of integration of their manufacturing process, Union producers used either corn or corn-based glucose syrup as their main raw materials. Since these raw materials represent an important component of the cost of production, their decrease in price accounted for between 25 % and 35 % of the decrease in cost of production during the period considered. Any increase in corn price or in corn-based glucose syrup could therefore instantly reverse the improved situation of the Union industry resulting from the decrease in cost of production.
- (115) The decrease in cost of production only led to a slight decrease in the average unit sales prices of 5 % over the period considered due to the fact that the Union industry was still recovering from the losses it incurred in previous periods as a result of past dumping practises.

4.5.2.7. Labour costs

- (116) The average labour costs of the Union producers developed over the period considered as follows:

Table 11

Average labour costs per employee

| | 2012 | 2013 | 2014 | RIP |
|---------------------------|------|------|------|-----|
| <i>Index (2012 = 100)</i> | 100 | 93 | 104 | 107 |

Source: Questionnaire replies.

- (117) Average labour costs increased by 7 % during the period considered. In any event, as labour represents only a minor portion of the production cost, this should not be considered a meaningful indicator in the analysis of the economic situation of the Union industry.

4.5.2.8. Inventories

- (118) Stock levels of the Union producers developed over the period considered as follows:

Table 12

Inventories

| | 2012 | 2013 | 2014 | RIP |
|--|-------------|-------------|-------------|-------------|
| Closing stocks (tonnes) | 4 000-8 000 | 3 000-7 000 | 1 000-5 000 | 1 000-5 000 |
| <i>Index (2012 = 100)</i> | 100 | 89 | 47 | 43 |
| Closing stocks as a percentage of production (%) | 8-16 | 8-16 | 2-11 | 2-10 |
| <i>Index (2012 = 100)</i> | 100 | 99 | 51 | 46 |

Source: Questionnaire replies.

(119) The level of inventories decreased by 54 % over the period considered.

(120) Inventories during the RIP were found to be at a normal level.

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

(121) Profitability, cash flow, investments and return on investments of the Union industry developed over the period considered as follows:

Table 13

Profitability, cash flow, investments and return on investments

| | 2012 | 2013 | 2014 | RIP |
|--|-----------------------------|---------------------------|-----------------------|-------------------------|
| Profitability of sales in the Union to unrelated customers (% of sales turnover) | – 20-0 | – 15-+ 5 | – 10-+ 10 | – 5-+ 15 |
| <i>Index (2012 = 100)</i> | 100 | 101 | 111 | 118 |
| Cash flow (EUR) | – 3 400 000- – 1 400 000 | – 1 600 000- + 400 000 | 700 000- 2 700 000 | 1 200 000- 3 200 000 |
| <i>Index (2012 = 100)</i> | 100 | 182 | 284 | 309 |
| Investments (EUR) | 300 000- 1 000 000 | 100 000- 800 000 | 100 000- 700 000 | 0-600 000 |
| <i>Index (2012 = 100)</i> | 100 | 66 | 56 | 35 |
| Return on investments (%) | – 20-0 | – 20-0 | – 10-+ 10 | 0-20 |
| <i>Index (2012 = 100)</i> | 100 | 99 | 111 | 122 |

Source: Questionnaire replies.

(122) The Commission established the profitability of the Union producers 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.

(123) The Union industry was loss-making during the first two years of the period considered and merely close to break-even in 2014. It is only during the RIP that the profitability eventually reached a level close but still below the target profit used in the original investigation. It must be underlined that this late improvement resulted from a decrease in cost of production that was largely due to the favourable evolution of the prices of corn and corn-based glucose syrup as explained in recital 114. Any price increase of these raw materials which are subject to price fluctuations in function of climate and crops could therefore instantly reverse the recently obtained profitability.

- (124) The cash flow, which is the ability of the Union producers to self-finance their activities, was negative during the first two years and turned positive only during the second half of the period considered.
- (125) The improvement of the cash flow was however in part made at the expense of the investments, which decreased by 65 % over the period considered and were almost negligible compared to the gross value of the capital assets used to manufacture the product concerned. The improvement of the cash flow was also a result of the improvement of the profitability which, as explained in recital 123, was in large part due to the favourable evolution of the price of corn and corn-based glucose syrup. Any price increase of these raw materials which are subject to price fluctuations in function of climate and crops could therefore instantly reverse the improvement of the cash flow situation.
- (126) It must also be noted that the low levels of investment and maintenance expenses (see recital 113), while temporarily improving cash flow and profitability, are not sustainable in the long term as they will eventually result in a degradation of the production facilities. This could ultimately have an impact on the production cost and efficiency of the production process. In any event necessary investments and maintenance expenses can only be postponed to a later period with a deferred negative impact on cash flow and profitability.
- (127) The return on investments is the profit in percentage of the net book value of investments. It was negative during the first two years of the period considered and turned positive only during the RIP. As return on investment and profitability are highly correlated injury indicators, the improvement of return on investment was a direct result of the improvement of profitability. The improvement of the return on investment was therefore also in large part due to the favourable evolution of the price of corn and corn-based glucose syrup described in recital 123. Any price increase of these raw materials which are subject to price fluctuations in function of climate and crops could therefore instantly reverse the recent improvement of the return on investment.
- (128) The Union industry kept its injection of fresh capital in the sodium gluconate activity to a strict minimum by lowering its level of investment to almost negligible amounts as explained in recital 125 and 126. Therefore ability to raise capital could not be analysed.

4.5.3. *Conclusion on injury*

- (129) Sales volume and market share displayed a positive development during the period considered as the Union industry managed to follow the increase in consumption. However this did not prevent production and capacity utilisation to decrease over the period considered.
- (130) The injury indicators related to the financial performance of the Union industry (profitability, cash flow and return on investment) were negative or at best close to zero during the first three years of the period considered and showed positive levels only during the RIP, with the exception of cash flow which became positive already in 2014.
- (131) The positive development of profitability, cash flow and return on investment cannot however be considered as stable as it materialised only towards the end of the period considered (cash flow) and during the RIP (profitability and return on investment). In addition, the positive level of all three indicators in the RIP was in large part due to the decrease in the cost of the main raw materials (corn and corn-based glucose syrup) which are subject to fluctuations as explained in recital 123, 125 and 127 and to savings in capital investment and maintenance expenses that are not sustainable in the long term (see recital 126). Moreover the level of profitability reached in the RIP remained lower than the target profit identified in the original investigation.
- (132) In view of the above, the Commission concluded that the Union industry started to recover from past dumping in the RIP and that it has not suffered material injury during the RIP within the meaning of Article 3(5) of the basic Regulation. However the investigation showed also that the financial performance of the Union industry was insufficient to guarantee long term viability.

4.6. Likelihood of recurrence of injury

- (133) In order to assess the likelihood of recurrence of injury several factors were taken into consideration, namely production capacity and spare capacity in the PRC, the exports volume of Chinese exporting producers to other third markets, the prices of Chinese exports to other third markets and the Chinese domestic prices the attractiveness of the Union market and the findings of the original investigation.
- (134) The Chinese spare capacity was between 600 000 to 700 000 tonnes during the RIP as established in recital 51, representing around 30 times the consumption in the Union which was between 16 000 and 22 000 tonnes. As indicated in recital 52, even if some of this spare capacity was to be used for a potentially increased demand in the PRC or in other third countries, a very large spare capacity would still remain available for exports to the Union.
- (135) As described in recital 54 significant export volumes were exported from China to other third countries increased. The exports to other third countries increased by 45 % from 2012 and 2014 and reached around 116 000 tonnes in 2014. This amount alone represents more than six times the Union consumption in the same period.
- (136) During the RIP, the average price of the Chinese exports to other third countries was found to be between 20 % and 40 % lower than the average Union industry price, as established in recital 76. Depending on the methodology used, as established in recitals 64 and 69 the dumping margins to other third countries of the Chinese exporting producers were exceeding 70 % or at least around 50 %. When considering the data of the sole cooperating exporting producer the dumping margin as explained in recital 70 was 8,3 %.
- (137) As established in recitals 75 and 76, the average price on the Union market was found to be between 27 % and 35 % higher than the average domestic price in the PRC and between 20 % and 40 % higher than the average Chinese export price to other third country markets during the RIP. Concerning the price levels to other third countries of the sole cooperating Chinese exporter in the RIP these were lower than the Union industry prices by between 20 % and 30 %.
- (138) On the basis of this it can be concluded that the Union market is very attractive in terms of prices in comparison to both the Chinese domestic market and third country markets. The attractiveness of the Union market is confirmed by the increasing presence of SKB, which doubled its export volume and increased its market share by 50 % as established in recital 78.
- (139) Should the measures be repealed it is therefore likely that the Chinese exporting producers will resume or start exporting to the Union in significant quantities, at dumped prices, likely to significantly undercut the Union industry prices (between 20 % to 40 % based on the price behaviour observed for the non-cooperating exporting producers in other third countries). Indeed it is likely that the price behaviour would be the same or similar as the one observed in other third countries, as this would allow the Chinese exporting producers to (re)gain market share in the Union market. In particular, sodium gluconate is a commodity product for which price is by far the most important and decisive factor.
- (140) To assess the likely impact on the situation of the Union industry of increased volumes in the Union market of low priced imports from China should the measures be repealed, the development during the period considered of the original investigation was also analysed. It was observed that during the investigation period of the original investigation, the Chinese imports were undercutting the Union industry sales prices by between 13 % and 29 %. The volume of the Chinese imports increased by 77 % over the period considered of the original investigation which in absolute terms corresponded to an increase of 1 774 tonnes (from 2 291 tonnes in 2005 to 4 095 tonnes during the investigation period of the original investigation). This increase was considered substantial and resulted in particular in a decrease of the profitability of the Union industry by 80 % as well as a decrease of its sales volume by 20 %. On this basis, the original investigation concluded that the Union industry suffered material injury.
- (141) In the likely scenario that significant Chinese import volumes at low dumped prices will enter the Union market should the measure be repealed, it is likely that the Union will react in a way similar as the one observed in the

original investigation and that therefore the impact of increased import volumes from China at prices significantly lower than the prices of the Union industry will have a similar effects than in the original investigation. In particular, given the very price sensitive market of this product and the considerably lower price levels in other third country markets, it is likely that the Union will be forced to decrease its sales volumes and production volume and lower its prices, with a negative impact on profitability. In fact, the price sensitivity of this product would exacerbate the impact of any price pressure exerted on the Union market. As a consequence, the improvement of the Union industry that materialised only during the RIP would be erased and the financial situation of the Union industry would likely seriously deteriorate.

- (142) Another indication of the potential impact of an increase in low priced Chinese imports on the Union industry should the measures be repealed, is shown by the situation that the Union industry is facing in respect of its exports to other third countries. In these countries, where no anti-dumping measures are in force and where Chinese imports were found to be dumped, the export volumes of the Union industry decreased by between 30 % and 40 %.
- (143) Based on the above, the Commission concluded that there is a strong likelihood of recurrence of injury should the measures be repealed.

5. UNION INTEREST

- (144) In accordance with Article 21 of the basic Regulation, the Commission examined whether the imposition of anti-dumping measures on imports of sodium gluconate originating in the PRC following the findings of the present expiry review would not be in the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all interests involved, including those of the Union industry, importers, users and wholesalers. All interested parties were given the opportunity to make their views known under Article 21(2) of the basic Regulation.

5.1. Interest of the Union industry

- (145) The Union industry's economic situation improved further to the imposition of anti-dumping measures in 2010.
- (146) The investigation showed however that the Union industry is still vulnerable as explained in recital 131 and 132.
- (147) As a consequence, should the measures be repealed, the injury is likely to recur as the Union industry will lose customers and experience downward price pressure at the benefit of Chinese exporting producers that are expected to increase import volumes at low dumped prices. A similar situation has been observed in other third countries as described in recital 142.
- (148) Maintaining the measures however, will allow the Union industry to continue its recovery from past dumping and to consolidate its situation.

5.2. Interest of unrelated importers

- (149) At initiation four known unrelated importers were contacted. Two replied to the questionnaire. They represented between 30 % and 50 % of the Chinese imports during the RIP and were not in favour of the measures.
- (150) It was found that the share of sodium gluconate in their turnover represented less than 5 %. In addition, both importers were overall profitable as well as in their activity concerning sodium gluconate.
- (151) On this basis the Commission considered that the impact, if any, of the continuation of measures on importers will be limited.

5.3. Interest of users

- (152) Questionnaires were sent to eight known users. Only one user who was not in favour of the measures replied.

- (153) During the RIP the cooperating user did not import from the PRC as it sourced sodium gluconate exclusively from one of the Union producers. For this user, sodium gluconate represents less than 5 % of the cost of manufacturing of the finished products incorporating sodium gluconate. In addition its activity incorporating sodium gluconate represented less than 20 % of the total turnover during the RIP. This user was also found to be overall profitable. On the basis of the limited impact any price fluctuation of sodium gluconate can have on its cost of production, it is expected that the impact, if any, of the continuation of measures on this user will be limited.
- (154) In view of the conclusion regarding the cooperating user and the low level of cooperation from the side of the users the Commission concluded that the impact, if any, on users of the continuation of measures will be limited.

5.4. Interest of wholesalers

- (155) Five wholesalers came forward by providing questionnaire replies. Three were in favour of the measures while the two others did not express any position. All five wholesalers purchased sodium gluconate from a Union producer and did not import the product concerned from China. The activity involving sodium gluconate represented a negligible part of the total turnover for all the companies during the period considered.
- (156) On this basis, the Commission concluded that impact, if any, of the continuation of measures on wholesalers is likely to be negligible.

5.5. Conclusion on Union interest

- (157) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to maintain measures on imports of sodium gluconate originating in the PRC.

6. ANTI-DUMPING MEASURES

6.1. Measures

- (158) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the anti-dumping measures in force. They were also granted a period within which they could submit comments subsequent to this disclosure. No party submitted any comments after the disclosure.
- (159) It follows from the above considerations that, under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of sodium gluconate in the PRC imposed by Commission Regulation (EU) No 377/2010 ⁽¹⁾ should be maintained.

6.2. Special monitoring

- (160) In order to minimise the risks of circumvention due to the high difference in the duty rates, it is considered that special measures are needed in this case to ensure the proper application of the anti-dumping duties.
- (161) The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) hereof. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.
- (162) Should the exports by the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met, an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rates and the consequent imposition of a countrywide duty.

⁽¹⁾ Commission Regulation (EU) No 377/2010 of 3 May 2010 imposing a provisional anti-dumping duty on imports of sodium gluconate originating in the People's Republic of China (OJ L 111, 4.5.2010, p. 5).

(163) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of sodium gluconate, with a Customs Union and Statistics (CUS) number 0023277-9 and a Chemical Abstracts Service (CAS) registry number 527-07-1, currently falling within CN code ex 2918 16 00 (TARIC code 2918 16 00 10) and originating in the People's Republic of China.

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

| Company | Definitive anti-dumping duty (%) | TARIC additional code |
|--------------------------------------|----------------------------------|-----------------------|
| Shandong Kaison Biochemical Co., Ltd | 5,6 | A972 |
| Qingdao Kehai Biochemistry Co. Ltd | 27,1 | A973 |
| All other companies | 53,2 | A999 |

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of sodium gluconate sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty applicable to 'all other companies' shall apply.

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

Article 2

This Regulation shall enter into force on the 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, 19 January 2017.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2017/95**of 19 January 2017****fixing the allocation coefficient to be applied to the quantities on which applications for import licences and applications for import rights lodged from 1 to 7 January 2017 are based under the tariff quotas opened by Regulation (EC) No 616/2007 for poultrymeat**

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 ⁽¹⁾, and in particular Article 188(1) and (3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 616/2007 ⁽²⁾ opened annual tariff quotas for imports of poultrymeat products originating in Brazil, Thailand and other third countries.
- (2) The quantities on which applications for import licences lodged from 1 to 7 January 2017 for the subperiod from 1 April to 30 June 2017 are based relate, for some quotas, to quantities exceeding those available. The extent to which import licences may be issued should therefore be determined by fixing the allocation coefficient to be applied to the quantities requested, calculated in accordance with Article 7(2) of Commission Regulation (EC) No 1301/2006 ⁽³⁾.
- (3) The quantities on which applications for import rights lodged from 1 to 7 January 2017 for the subperiod from 1 April to 30 June 2017 are based relate, for some quotas, to quantities exceeding those available. The extent to which import rights may be issued should therefore be determined by fixing the allocation coefficient to be applied to the quantities requested, calculated in accordance with Article 6(3) in conjunction with Article 7(2) of Commission Regulation (EC) No 1301/2006.
- (4) In order to ensure the efficient management of the measure, 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

1. The quantities on which applications for import licences lodged pursuant to Regulation (EC) No 616/2007 for the subperiod from 1 April to 30 June 2017 are based shall be multiplied by the allocation coefficient set out in Part A of the Annex hereto.
2. The quantities on which applications for import rights lodged pursuant to Regulation (EC) No 616/2007 for the subperiod from 1 April to 30 June 2017 are based shall be multiplied by the allocation coefficient set out in Part B of the Annex hereto.

Article 2

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

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ Commission Regulation (EC) No 616/2007 of 4 June 2007 opening and providing for the administration of Community tariff quotas in the sector of poultrymeat originating in Brazil, Thailand and other third countries (OJ L 142, 5.6.2007, p. 3).

⁽³⁾ Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences (OJ L 238, 1.9.2006, p. 13).

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

Done at Brussels, 19 January 2017.

*For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General
Directorate-General for Agriculture and Rural Development*

ANNEX

PART A

| Group No | Order No | Allocation coefficient — applications lodged for the sub-period from 1 April to 30 June 2017 (%) |
|----------|-------------------------------|--|
| 1 | 09.4211 | 0,273598 |
| 2 | 09.4212 | 39,659846 |
| 4A | 09.4214 09.4251 09.4252 | 29,761716 0,475143 — |
| 6A | 09.4216 09.4260 | 0,281611 0,313976 |
| 7 | 09.4217 | — |
| 8 | 09.4218 | — |

PART B

| Group No | Order No | Allocation coefficient — applications lodged for the sub-period from 1 April to 30 June 2017 (%) |
|----------|--|--|
| 5A | 09.4215 09.4254 09.4255 09.4256 | 0,506436 0,571640 — — |

COMMISSION IMPLEMENTING REGULATION (EU) 2017/96**of 19 January 2017****on the minimum selling price for skimmed milk powder for the third partial invitation to tender within the tendering procedure opened by Implementing Regulation (EU) 2016/2080**

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 ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) 2016/1240 of 18 May 2016 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to public intervention and aid for private storage ⁽²⁾, and in particular Article 32 thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2016/2080 ⁽³⁾ has opened the sale of skimmed milk powder by a tendering procedure.
- (2) In the light of the tenders received for the third partial invitation to tender, a minimum selling price should not be fixed.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

For the third partial invitation to tender for the selling of skimmed milk powder within the tendering procedure opened by Implementing Regulation (EU) 2016/2080, in respect of which the period during which tenders were to be submitted ended on 17 January 2017, a minimum selling price has not been fixed.

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, 19 January 2017.

For the Commission,

On behalf of the President,

Jerzy PLEWA

Director-General

Directorate-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 206, 30.7.2016, p. 71.

⁽³⁾ Commission Implementing Regulation (EU) 2016/2080 of 25 November 2016 opening the sale of skimmed milk powder by a tendering procedure (OJ L 321, 29.11.2016, p. 45).

DECISIONS

COMMISSION DECISION (EU) 2017/97

of 4 July 2016

on the State aid SA.40168 — 2015/C (ex SA.33584 — 2013/C (ex 2011/NN)) implemented by the Netherlands in favour of the professional football club Willem II in Tilburg

(notified under document C(2016) 4061)

(Only the Dutch text is authentic)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to Article 108(2) of the Treaty ⁽¹⁾ and having regard to their comments,

Whereas:

1. PROCEDURE

- (1) In 2010, the Commission was informed by a citizen that the Netherlands had implemented an aid measure for the professional football club Willem II in Tilburg. This complaint was registered under the number SA.31122. In 2010 and in 2011, the Commission also received complaints concerning measures in favour of other professional football clubs in the Netherlands, namely MVV in Maastricht, FC Den Bosch in 's-Hertogenbosch', PSV in Eindhoven and NEC in Nijmegen. By letter dated 2 September 2011 the Netherlands provided the Commission with further information on the measure concerning Willem II.
- (2) By letter dated 6 March 2013, the Commission informed the Netherlands that it had decided to initiate the procedure laid down in Article 108(2) of the Treaty in respect of the measures in favour of Willem II, NEC, MVV, PSV and FC Den Bosch.
- (3) The Commission decision to initiate the procedure (hereinafter: 'the opening decision') was published in the *Official Journal of the European Union* ⁽²⁾. The Commission invited interested parties to submit their comments on the measures in question.
- (4) The Netherlands submitted observations within the framework of the procedure concerning the measure in favour of Willem II by letters dated 31 May 2013 and 12 November 2013. The Netherlands also replied to a request for additional information by letter dated 11 February 2014.
- (5) The Commission received observations from the municipality of Tilburg (hereinafter: 'the municipality') as an interested party concerning the measure for Willem II. It forwarded them to the Netherlands, which was given the opportunity to react; its comments were received by letter dated 12 November 2013 and in a meeting which took place on 20 March 2014.

⁽¹⁾ Commission Decision in Case SA.33584 (2013/C) (ex 2011/NN) — Netherlands aid to certain professional Dutch football clubs in 2008-11 — Invitation to submit comments pursuant to Article 108(2) of the Treaty on the Functioning of the European Union (OJ C 116, 23.4.2013, p. 19).

⁽²⁾ Cf. footnote 1.

- (6) Following the opening decision, and in agreement with the Netherlands, the investigations for the different clubs were pursued separately. The investigation concerning the Willem II club was registered under the case number SA.40168.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. The measure and its beneficiary

- (7) The national football federation Koninklijke Nederlandse Voetbal Bond (hereinafter: 'KNVB') is the umbrella organisation for professional and amateur football competition. Professional football in the Netherlands is organised in a two-tier system. In the 2014/2015 season, it involved 38 clubs, of which 18 played in the top league (*eredivisie*) and 20 in the lower league (*eerste divisie*).
- (8) Willem II was founded in 1898 and it has been a professional football club since the introduction of professional football in the Netherlands in 1954. Willem II plays its home matches in the *Koning Willem II Stadion* (hereinafter: 'the stadium') in Tilburg. Willem II was relegated from the top league to the lower league in 2010/2011. The club was promoted again in 2012 and again relegated in 2013. In 2014 it was again promoted to the top league. 2005/2006 was the latest season in which Willem II played in a European tournament (UEFA cup).
- (9) Willem II's current legal form is the *Willem II Tilburg BV*. The entity *Willem II Tilburg BV* (hereinafter: 'Willem II') is the beneficiary of the measure. It is owned by the foundation *Stichting Beheer Betaald Voetbalorganisatie Willem II Tilburg*. There is a separate association (*Vereniging*) Willem II. Willem II is a medium-sized enterprise with 53 employees in 2012. It had an annual turnover of EUR 11,4 million in the accounting year 2008/2009 and a turnover of EUR 9,9 million in the accounting year 2009/2010.
- (10) In 2004 the municipality and Willem II concluded a contract, by which the municipality became the full owner ⁽⁹⁾ of the stadium and by which Willem II obtained a lease for the use of the stadium. The lease contract specified that the municipality let the stadium to Willem II, for which the latter was to pay an annual rent of EUR 1 001 731, plus VAT and variable cost. The rent was based on the investment cost, a depreciation period of 30 years and the interest rate of 5,5 % used by the municipality at the time the contract was concluded. The conditions in the 30-year lease were designed to ensure an exploitation of the stadium that would be budgetary neutral for the municipality. The Commission stated in point 51 of the opening decision that the parameters agreed at the time guaranteed that Willem II paid a rent covering all costs, thus avoiding any operating aid to the football club. The rent was within the bandwidth of rent paid by others, albeit above the average. In the years 2004 to 2008 Willem II was able to pay the rent.
- (11) In the football season 2009/2010, Willem II faced financial difficulties, and in May 2010 it announced that it was on the brink of bankruptcy. The municipality, which had previously suspended the payment of rent for 2009, decided on 31 May 2010 to lower the rent and other cost due with retroactive effect till 2004. The effect of this decision was a decrease by EUR 0,4 million of the annual amount due by the football club during a period of six years, leading to a payment — in two tranches — of EUR 2,4 million to Willem II, a sum from which the outstanding rent for 2009 was deducted. A new lease, replacing the 2004 lease, was concluded on 31 October 2011.
- (12) The decision of the municipality of 31 May 2010 was based on the condition that Willem II fulfils obligations contained in a restructuring plan which aimed at restoring long-term viability of Willem II. The conditions of this plan included quarterly financial reporting obligations, a balanced budget for the next football season, finding a way to clean up its balance sheet, the need to respect the national football association's norms for salaries of players, the introduction of a new management and supervision structure. The measures taken by Willem II to fulfil those conditions were subsequently considered satisfactory by the municipality which therefore released the second tranche of the EUR 2,4 million.
- (13) The Netherlands did not notify their plan to award EUR 2,4 million to Willem II to the Commission pursuant to Article 108(3) of the Treaty. The Commission had also not been informed of the decision taken in 2009 to suspend the payment of the annual rent for the season 2009/2010.

⁽⁹⁾ Before the contract was concluded, the municipality was the legal owner of the stadium and the land on which it stands, whereas Willem II had economic ownership of the stadium, in which it had invested with its own money.

2.2. Possible effect of the aid

- (14) The Netherlands has questioned the impact of possible aid on the internal market for clubs not playing football at European level. However, professional football clubs are considered to be undertakings and are subject to State aid control. Football takes the form of gainful employment and provides services for remuneration; it has developed a high level of professionalism and thereby increased its economic impact ⁽⁴⁾.
- (15) Professional football clubs deploy economic activities in several markets, other than participating in football competitions, which have an international dimension, such as the transfer market for professional players, publicity, sponsorship, merchandising or media coverage. Aid to a professional football club strengthens its position on each of those markets, most of which cover several Member States. Therefore, if State resources are used to provide a selective advantage to a professional football club, regardless of the league in which it plays, such aid is likely to have the potential of distorting competition and to affect trade between Member States within the meaning of Article 107(1) of the Treaty ⁽⁵⁾.

2.3. Grounds for initiating the procedure

- (16) In the opening decision, the Commission arrived at the preliminary conclusion that the municipality had provided a selective advantage to Willem II with the use of State resources and had, hence, provided aid to the football club. The Commission also took the position that aid measures to professional football clubs are likely to distort competition and to affect trade between Member States within the meaning of Article 107(1) of the Treaty.
- (17) In the opening decision the Commission noted that Willem II had been in financial difficulties at the time the aid was awarded. In order to assess the compatibility of the aid with the Guidelines on State aid for rescuing and restructuring of firms in difficulty ⁽⁶⁾ (hereinafter: 'the Guidelines'), the Commission requested information on the compliance with all requirements set out in the Guidelines.
- (18) The Commission was notably unable to verify whether the conditions in points 34-37 of the Guidelines concerning the nature and fulfilment of a restructuring plan had been respected. The Commission was also unable to verify whether adequate compensatory measures within the meaning of points 38-42 had been taken. It furthermore needed to be demonstrated that the aid had been limited to the minimum necessary, that the beneficiary itself had paid an adequate own contribution to its restructuring and that the 'one time, last time' principle would be respected.

3. COMMENTS FROM THE NETHERLANDS

- (19) The Netherlands disagreed that the measure to restructure the stadium lease agreement constituted State aid. In the view of the Netherlands, the municipality as the owner of the stadium applied market conditions and acted in conformity with the market economy investor and creditor principle by suspending the rent for the main user of the stadium in 2009 and by lowering the rent and other contractual conditions with retroactive effect in 2010. In the case of bankruptcy of Willem II, the club would have lost its licence to play professional football. The municipality would have been stuck with a football stadium that could only be made useful for other activities at substantial investment cost. The Netherlands claimed that the lower rent was in line with the rent paid elsewhere for other stadia and that it therefore was in conformity with market conditions.

⁽⁴⁾ Case C-325/08 *Olympique Lyonnais* ECLI:EU:C:2010:143, points 27 and 28; Case C-519/04 *P Meca-Medina and Majcen v Commission* ECLI:EU:C:2006:492, point 22; Case C-415/93 *Bosman* ECLI:EU:C:1995:463, point 73.

⁽⁵⁾ Commission Decisions regarding Germany of 20 March 2013 on *Multifunktionsarena der Stadt Erfurt* (Case SA.35135 (2012/N)), point 12, and *Multifunktionsarena der Stadt Jena* (Case SA.35440 (2012/N)), summary notices in OJ C 140, 18.5.2013, p. 1, and of 2 October 2013 on *Fußballstadion Chemnitz* (Case SA.36105 (2013/N)), summary notice in OJ C 50, 21.2.2014, p. 1, points 12-14; Commission Decisions regarding Spain of 18 December 2013 on possible State aid to four Spanish professional football clubs (Case SA.29769 (2013/C)), point 28, Real Madrid CF (Case SA.33754 (2013/C)), point 20, and alleged aid in favour of three Valencia football clubs (Case SA.36387 (2013/C)), point 16, published in OJ C 69, 7.3.2014, p. 99.

⁽⁶⁾ Communication from the Commission — Community Guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 244, 1.10.2004, p. 2). The application of those guidelines was prolonged by the Commission communication concerning the prolongation of the application of the Community guidelines on State aid for rescuing and restructuring firms in difficulty of 1 October 2004 (OJ C 296, 2.10.2012, p. 3).

- (20) Alternatively, the Netherlands argued that even if the measure were to constitute aid, it would be compatible with the internal market. These arguments were, firstly, based on a letter sent by the Commission to the Netherlands on 11 July 2002 concerning sports infrastructure. In this letter the Commission described certain conditions under which it would consider the financing of sport infrastructure not to constitute state aid. Secondly, the arguments are based on the Guidelines and Article 107(3)(c) of the Treaty.
- (21) Regarding the restructuring of Willem II, the Netherlands described the financial situation of the club. In the accounting year 2008/2009 ⁽⁷⁾ Willem II made a loss of EUR 3,9 million on a turnover of EUR 11,4 million and its own equity (*eigen vermogen*) decreased from EUR 4,1 million to EUR 0,2 Million. In 2009/2010 ⁽⁸⁾ Willem II made a loss of EUR 4,4 million on a turnover of EUR 9,9 million. Despite the award of EUR 2,4 million by the municipality, its own equity decreased further from EUR 0,2 million to *minus* EUR 2,1 million.
- (22) Each Dutch professional football club needs a licence from the KNVB, which it receives only if it complies with various obligations. One of the obligations under the system relates to the financial sanity of the club. Each season, a club is obliged to submit financial reports by 1 November, 1 March and 15 June, depicting, inter alia, its current financial situation, as well as the budget for the next season. On the basis of these reports, clubs are scaled in three categories (1: insufficient, 2: sufficient, 3: good). Clubs in category 1 may be obliged to present a plan for improvement in order to reach category 2 or 3. If the club fails to comply with the plan, sanctions may be imposed by the KNVB, including an official warning, a reduction of competition points and — as ultimate sanction — withdrawal of the licence. A professional football club in the Netherlands, which is declared bankrupt, loses its licence. If a successor club is founded, it would not be admitted to the professional football leagues directly, but it would have to start in the second-highest amateur league. With its difficulties, Willem II risked to lose its licence to participate in professional competitions. It was scaled in the category 1 in 2010.
- (23) The Netherlands advised that in view of these difficulties the decision of the municipality to award EUR 2,4 million to Willem II was subordinated to a number of conditions set out in the restructuring plan drawn up by Willem II ⁽⁹⁾. The plan was designed to lead to a healthy financial position over a period of 3 years. It was also the aim of the plan to meet the requirements of the KNVB to obtain the category 2 status (sufficient) by the end of its financial year 2012/2013. Already in December 2011 the category 2 status was awarded by KNVB.
- (24) The restructuring plan entailed a new management, cuts in staff and in the group of players. It foresaw that the number of contract players is reduced. Several players will be transferred, existing contracts prolonged for lower pay, new contracts will be either concluded free of transfer payments or players be rented from other clubs. It was the plan's objective to reduce the cost of personnel and players from 77 % to below 55 %.
- (25) Nine private entities had agreed to altogether lend EUR 2,25 million to Willem II in 2009, when the financial difficulties arose. In 2010, they could be persuaded to extend the duration of the loans, not to pursue their claims until the restoration of sufficient liquidity of Willem II, and to accept a lower interest on these claims; six of them went further and dropped 10 % of their claims. Aim of the restructuring plan was to enable Willem II to achieve within 3 years a moderate operating profit. The plan tuned out to be realistic. Willem II made a profit of around EUR 0,3 million in 2010/2011 and in 2011/2012, and smaller amounts in 2012/2013; it improved its own equity position to minus EUR 1,4 million per 30 June 2012, minus 1,3 per 30 June 2013, and turned it into positive with the accounting year 2013/2014.

4. COMMENTS FROM INTERESTED PARTIES

- (26) The municipality submitted observations under the procedure which were largely identical with the observations submitted by the Netherlands. The municipality also provided specific information on the financial situation of Willem II in 2009 and submitted a study, conducted in November 2013 by Deloitte Financial Advisory Services, concerning the cost of the various options open to the municipality in 2010, in order to support its view that the measures decided in 2009 and 2010 had been rational.

⁽⁷⁾ 30.6.2008-1.7.2009.

⁽⁸⁾ 30.6.2009-1.7.2010.

⁽⁹⁾ *Plan van aanpak Willem II* of 23 July 2010.

5. ASSESSMENT OF THE MEASURE

5.1. Presence of State aid according to Article 107(1) of the Treaty

- (27) According to Article 107(1) of the Treaty, State aid is awarded by a Member State or through State resources in any form whatsoever, which distorts or threatens to distort competition by providing an economic advantage to certain undertakings or the production of certain goods in so far as it affects trade between Member States. The conditions laid down in Article 107(1) of the Treaty are cumulative and therefore, for a measure to be qualified as State aid, all the conditions must be fulfilled.
- (28) On the basis of the opening decision, the Commission assesses with regard to the presence of aid the decision of the municipality in 2009 to suspend the payment of rent for the use of the stadium by Willem II and the decision of the municipality taken in May 2010 to lower, with retroactive effect, the rent and other cost for the use of the stadium. The Commission notes that both actions are closely linked as regards their chronology, their purpose and the situation of Willem II at the time and should therefore be examined together.

5.1.1. Financing through State resources

- (29) Both measures were decided by the municipality and they have direct financial consequences for its budget; they thus involve the use of State resources. The transfer of State resources may take many forms, such as direct grants, loans, guarantees, direct investment in the capital of enterprises and benefits in kind. Waiving revenue which would otherwise have been paid to the State also constitutes a transfer of State resources.

5.1.2. Economic advantage

- (30) The measures need to provide an economic advantage to Willem II which it would not have had under normal market conditions. The Netherlands and the municipality claim that the municipality acted in compliance with the market economy investor principle and the market economy creditor principle and, hence, did not provide any advantage to Willem II. The Commission does not agree with this view for the following reasons.
- (31) Whenever the financial situation of an undertaking is improved as a result of State intervention, it can be assumed that an advantage is present. To assess this, the financial situation of the undertaking following the measure should be compared with its financial situation if the measure had not been introduced. Without the intervention, the club would have remained in financial difficulty, with the danger to go bankrupt and be relegated to a lower league. It is undisputed that Willem II's financial situation improved markedly through the measures under investigation.
- (32) This would not constitute an undue advantage if the municipality can demonstrate that it acted in compliance with the market economy investor principle and the market economy creditor principle. The Commission notes that in 2004 the municipality had acquired full ownership of the stadium. For this acquisition it paid the economic value of the stadium, which had been established on the basis of outside expertise. The 2004 lease with Willem II was concluded by the municipality in the full knowledge that the stadium was not a multifunctional arena, but a football stadium with Willem II as captive user and with only limited possibilities for use for activities outside football. The municipality therefore knew that the exploitation of the stadium depended on Willem II's continued ability to pay the rent and other costs specified in the contract. A market economy investor would either not have assumed this risk at all, or only have assumed it in return for a corresponding profit margin and insurance against any possibility of insolvency of the captive user.
- (33) When the municipality informed the municipal council in 2010 that Willem II was on the brink of bankruptcy, it also found that the exploitation of the stadium since 2004 had only been neutral for its budget. If however the 2004 lease did not generate a reasonable profit, 2010 the amendment with retroactive effect of the leasing conditions was done in the knowledge that it makes the exploitation since 2004 loss making. This excludes that the 2010 decision to reduce the rent would meet the market economy investor principle. No commercial actor would agree to the retroactive modification of a rent which does not have any perspective to assure a return on investment.

- (34) The Netherlands and the municipality, however, also claim that the decision of the municipality which eased the debt burden on the club, complied with the market economy creditor principle. In this context, they refer to the fact that several large creditors waived part of their claims on Willem II. They also refer to the part in the opening decision in which the Commission concluded that the measures of the municipality of Arnhem in favour of the football club Vitesse did not constitute State aid.
- (35) In this respect the Commission would firstly note that the decisions taken in 2009 to suspend the payment of rent and in 2010 to decrease, with retroactive effect, the rent and other payment obligations for the use of the stadium were not taken simultaneously with corresponding measures by other creditors. Furthermore, in 2010 the municipality conceded an amount of EUR 2,4 million to Willem II, more than twice its claim of one year rent on Willem II. The municipality did require that Willem II should negotiate with other creditors to clean up its balance sheet, but without setting conditions for those negotiations which would match the conditions of its own intervention. The argument that a bankrupt professional football club would lose its licence and that the municipality would have been stuck with a football stadium that could only be made useful for other activities at substantial investment cost, is also not convincing. In case of bankruptcy, a successor club could have been founded as a user of the stadium. Certainly, it would not be admitted to the professional football leagues directly, it would have to start in the second-highest amateur league. But it would have the perspective to use the stadium and to return in a foreseeable future to the professional league, thus contributing to stadium lease revenues.
- (36) The Netherlands also referred to the Commission's letter of 11 July 2002 in which it described certain conditions under which it would consider the financing of sport infrastructure not to constitute state aid. These conditions would include the multifunctional character of the arena, the non-discriminatory access to it and the appropriateness of user fees.
- (37) However, in the present case these observations cannot lead to a conclusion that Willem II did not obtain an undue advantage. It could already be disputed whether the arguments set out in the letter of 11 July 2002 are still of relevance, in view of the jurisprudence of the Court of Justice which considered the public investment in infrastructure which is made available for public use State aid ⁽¹⁰⁾. In the present case it is however decisive that the municipality and Willem II concluded in 2004 a contract by which they agreed on an annual rent of EUR 1 001 731. If the payment of this agreed rent is first suspended in agreement with the municipality and if the rent amount is thereafter retroactively lowered, the municipality confers a financial advantage to Willem II which it normally would not have had and which in any case a private operator would normally not have granted.
- (38) For these reasons, the Commission is not convinced that the municipality acted like a market economy operator, be it as an investor or a creditor or both. Therefore it concludes that it provided financial support to avoid the bankruptcy of Willem II, which a private market actor would not have provided and which thus constitute an advantage.

5.1.3. *Effect on trade and competition*

- (39) The Netherlands has questioned the impact of possible aid on the internal market for clubs not playing football at European level. In this regard, as pointed out in recital 14, the Commission recalls that professional football clubs are considered to be undertakings and are subject to State aid control. Football takes the form of gainful employment and provides services for remuneration; it has developed a high level of professionalism and thereby increased its economic impact.
- (40) Furthermore, Willem II is a potential participant in European football tournaments and it has, in the past, actually participated in a European tournament. As a professional football club it deploys economic activities in several markets other than participating in football competitions which have an international dimension, such as the transfer market for professional players, publicity, sponsorship, merchandising or media coverage. Aid to a professional football club strengthens its position on each of those markets, most of which cover several Member States. Therefore, as set out in recital 15, if State resources are used to provide a selective advantage to a professional football club, regardless of the league in which it plays, such aid is likely to have the potential of distorting competition and to affect trade between Member States within the meaning of Article 107(1) of the Treaty.

⁽¹⁰⁾ For instance Judgment of 19 December 2012 in Case C-288/11 *Mitteldeutsche Flughafen AG and Flughafen Leipzig-Halle GmbH v Commission* ECLI:EU:C:2012:821.

5.2. Assessment under Article 107(3)(c) of the Treaty

- (41) The Commission must assess whether the aid measure in favour of Willem II can be considered to be compatible with the internal market. None of the derogations mentioned in Article 107(2) of the Treaty applies to the aid measure in question. As regards the derogations provided for in Article 107(3) of the Treaty, the Commission notes that none of the Dutch regions falls under the derogation in Article 107(3)(a) of the Treaty. The aid measure in question does not promote an important project of common European interest, nor does it serve to remedy any serious disturbance in the Dutch economy within the meaning of Article 107(3)(b) of the Treaty. The aid measure can also not be said to promote culture or heritage conservation within the meaning of Article 107(3)(d) of the Treaty.

5.2.1. Applicable guidelines

- (42) As regards the derogation in Article 107(3)(c) of the Treaty in favour of aid to facilitate the development of certain economic activities, such aid could be compatible where it does not adversely affect trading conditions to an extent contrary to the common interest.
- (43) For its assessment of aid measures under Article 107(3)(c) of the Treaty, the Commission has issued a number of Regulations, Frameworks, Guidelines and Communications concerning aid forms and horizontal or sector purposes for which aid is awarded. Given that Willem II faced financial difficulties at the time the measures were taken and that the aid was awarded by the municipality to address those difficulties, it is appropriate to assess whether the criteria laid down in the Guidelines ⁽¹¹⁾ apply and are fulfilled.
- (44) In July 2014, the Commission published new Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ⁽¹²⁾. They are, however, not applicable to this non-notified aid granted in 2009 and 2010. According to point 137 of the new guidelines, this would only be the case for any rescue or restructuring aid granted without prior authorisation if some or all of the aid is granted after the publication of those guidelines in the *Official Journal of the European Union*. According to point 138 of the new guidelines, in all other cases the Commission will conduct the examination on the basis of the guidelines which applied at the time the aid was granted, and therefore, in the present case, those applicable before 2014.

5.2.2. Willem II as company in difficulty

- (45) According to point 10(a) of the Guidelines, a limited liability company must be considered to be in difficulty if more than half of its registered capital has disappeared and more than one quarter of that capital has been lost in the preceding 12 months. In the accounting year 2008/2009 ⁽¹³⁾ Willem II made a loss of EUR 3,9 million on a turnover of EUR 11,4 million and its own equity (*eigen vermogen*) decreased from EUR 4,1 million to EUR 0,2 million. In 2009/2010 ⁽¹⁴⁾ Willem II made a loss of EUR 4,4 million on a turnover of EUR 9,9 million. Despite the award of EUR 2,4 million by the municipality, its own equity decreased further from EUR 0,2 million to minus EUR 2,1 million. Willem II therefore clearly was a company in difficulty. This fact is not disputed by the Netherlands. Therefore, the compatibility of the State aid to Willem II will be assessed under the Guidelines.

5.2.3. Restoration of long term viability

- (46) In section 3.2, the Guidelines require that the grant of the aid must be conditional on the implementation of a restructuring plan (see points 34-37 of the Guidelines), which must restore the long-term viability of the firm within a reasonable time-scale. In this regard, the Commission notes that the decision of the municipality to award 2,4 million to Willem II was subordinated to a number of conditions, as mentioned in recital 12. These conditions were the core of the restructuring plan drawn up by Willem II ⁽¹⁵⁾.

⁽¹¹⁾ See footnote 6.

⁽¹²⁾ Communication from the Commission — Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.7.2014, p. 1).

⁽¹³⁾ 30.6.2008-1.7.2009.

⁽¹⁴⁾ 30.6.2009-1.7.2010.

⁽¹⁵⁾ See footnote 9.

- (47) The plan was designed to lead to a healthy financial position over a period of 3 years, also meeting the requirements of the KNVB to continue licensing Willem II for professional competitions and to obtain the category 2 status by the end of its financial year 2012/2013.
- (48) The restructuring plan entailed a new management, substantial cuts in staff and in the group of players. Several players were transferred, existing contracts were prolonged for lower pay, new contracts were concluded free of transfer payments. This entailed a reduction of cost of personnel and players of 30 % over the two years following the adoption of the plan. In addition to the EUR 2,4 million from the municipality, Willem II could secure the continued contribution of EUR 2,25 million from the private sector.
- (49) The Commission finds that the restructuring plan tackles the causes of the financial difficulties of Willem II, especially the cost of players in the form of wages and transfer payments. Willem II envisages savings on its core activity. The restructuring plan does not rely on external factors which Willem II can pursue but not entirely control, such as finding new sponsors and an increase in the number of spectators. Although the financial position and especially the negative own equity of Willem II remain a cause for concern, the continued improvement of the financial situation of the club is envisaged as well as its continued operation as a professional football club. The development shows that the plan was indeed realistic. The KNVB awarded the category 2 status already in December 2011. Willem II was able to achieve an operating profit of EUR 0,3 million in 2010/2011 and again in 2011/2012, thus improving its own equity position to *minus* EUR 1,4 million per 30 June 2012.

5.2.4. *Compensatory measures*

- (50) Points 38-42 of the Guidelines require that compensatory measures be taken by the beneficiary in order to minimise the distortive effect of the aid and its adverse effects on trading conditions. In point 80 of the opening decision the Commission noted the peculiar nature of professional football in this regard and suggested a number of measures that could, for professional football, be interpreted as compensatory measures within the meaning of the Guidelines, such as the limitation of its registered players within the limits allowed by the national association, the acceptance of a cap on wages below the usual standards in the sector, a ban on paying transfer cost for new players for a certain period, or an increase in activities to the benefit of society. By accepting a cap on the number of players or their wages a club would also accept a competitive disadvantage compared to other clubs without those limitations. A ban on transfer fees limits the choice for new competitive players.
- (51) The Commission notes that Willem II has indeed, according to the plan, reduced the number of employees and players. The number of employees went down from 79 in the season 2009/2010 to 61 in 2010/2011 and 53 in 2011/2012. The number of registered players was decreased from 31 to 27. The cost of wages ⁽¹⁶⁾ was brought to a level of 48 % of turnover, which is well below the UEFA standard of 70 % for players only. No transfer payments are made for new players during the restructuring period. Those measures weakened the team of the club and, hence, contributed to the relegation of Willem II to the second league at the end of the 2010/2011 season and again in 2012/2013. The Commission also notes more expenditure of the club for public benefit by the training of amateurs. The Commission concludes that the compensatory measures required by the Guidelines were taken, which had the effect of weakening Willem II's competitive position in professional football.

5.2.5. *Aid limited to a minimum*

- (52) The Commission also notes that the restructuring plan is to a considerable extent financed by external private entities in addition to the internal savings made. Nine private entities had agreed to altogether lend EUR 2,25 million to Willem II in 2009, when the financial difficulties arose. In 2010, they were persuaded to continue leaving these amounts with the club and to agree not to pursue their claims until Willem II will be able to pay them back. They also accepted a lower interest rate of 3 %. Six of them were persuaded to drop 10 % of their claims altogether. This meets the requirement in point 44 of the Guidelines that for a medium-sized enterprise like Willem II at least 40 % of the cost of the restructuring should be met by the own contribution of the beneficiary, including external financing demonstrating a belief in the viability of the beneficiary.

⁽¹⁶⁾ The accounts of Willem II do not distinguish between wages of players and of other employees.

- (53) The amount of the aid was necessary. According to the restructuring plan it should lead to a moderate positive result in the 2010/2011 and 2011/2012 seasons and slowly improve the equity. This would not have allowed Willem II to buy new players or attract them with higher salaries.

5.2.6. Monitoring and annual report

- (54) Point 49 of the Guidelines requires that the Member State communicates on the proper implementation of the restructuring plan through regular detailed reports. Point 51 sets out less stringent conditions for small and medium-sized enterprises where the transmission of yearly copies of the balance sheet and profit-and-loss accounts is normally considered sufficient. The Netherlands has committed to submit these reports.

5.2.7. One time, last time

- (55) In accordance with points 72-77 of the Guidelines, the Netherlands specified that Willem II did not receive rescue or restructuring aid in the 10 years before the grant of the present aid. It also committed not to award any new rescue or restructuring aid to Willem II during a period of 10 years.

6. CONCLUSION

- (56) The Commission finds that the Netherlands has unlawfully implemented the aid to Willem II in breach of Article 108(3) of the Treaty. However, the State aid amounting to EUR 2,4 million, which was awarded to Willem II in 2009 and 2010, meets the conditions for restructuring aid in the Guidelines and can be considered compatible with the internal market in accordance with Article 107(3)(c) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The State aid which the Netherlands has implemented in favour of the football club Willem II in Tilburg, amounting to EUR 2,4 million, is compatible with the internal market within the meaning of Article 107(3)(c) of the Treaty on the Functioning of the European Union.

Article 2

This Decision is addressed to the Kingdom of the Netherlands.

Done at Brussels, 4 July 2016

For the Commission
Margrethe VESTAGER
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2017/98**of 18 January 2017****amending the Annex to Implementing Decision 2013/519/EU as regards the model animal health certificate for imports into the Union of dogs, cats and ferrets***(notified under document C(2017) 123)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC ⁽¹⁾, and in particular point (b) of the first subparagraph of Article 17(2) thereof,

Whereas:

- (1) Directive 92/65/EEC provides that dogs, cats and ferrets are to be imported into the Union only from authorised territories or third countries and be accompanied by a health certificate corresponding to a specimen drawn up in accordance with the procedure referred to therein. Part 1 of the Annex to Commission Implementing Decision 2013/519/EU ⁽²⁾ sets out the model animal health certificate.
- (2) In the model animal health certificate reference is made to the required successful test for immune response to anti-rabies vaccination that should be performed on blood samples taken from dogs, cats and ferrets coming from or scheduling to transit through a territory or a third country listed in Annex I to Commission Decision 2004/211/EC ⁽³⁾ or in Part 1 of Annex II to Commission Regulation (EU) No 206/2010 ⁽⁴⁾.
- (3) Following the repeated forgery of laboratory reports on the results of the rabies antibody titration test, it is appropriate to request certifying officials in territories or third countries that the satisfactory results to that test should not be certified unless the authenticity of the laboratory report has been verified. A specific guidance note to that effect should be included in the model animal health certificate.
- (4) Furthermore, the entry regarding the date of application or reading of the tattoo or transponder of dogs, cats or ferrets in Part I of the model animal health certificate has been misinterpreted by certifying officials in third countries and has therefore caused problems during veterinary checks at border inspection posts. In order to avoid any misunderstanding, that entry should be removed from Part I of the model animal health certificate that describes the animals, and inserted in Part II of that certificate, that concerns the certification of the animals. A specific note for guidance concerning the verification of the marking should also be included in Part II.
- (5) The Annex to Implementing Decision 2013/519/EU should therefore be amended accordingly.
- (6) In order to avoid any disruption of imports into the Union of consignments of dogs, cats and ferrets, the use of certificates issued in accordance with Union rules applicable before the date of application of this Decision should be authorised during a transitional period subject to certain conditions.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

⁽¹⁾ OJ L 268, 14.9.1992, p. 54.

⁽²⁾ Commission Implementing Decision 2013/519/EU of 21 October 2013 laying down the list of territories and third countries authorised for imports of dogs, cats and ferrets and the model health certificate for such imports (OJ L 281, 23.10.2013, p. 20).

⁽³⁾ Commission Decision 2004/211/EC of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC (OJ L 73, 11.3.2004, p. 1).

⁽⁴⁾ Commission Regulation (EU) No 206/2010 of 12 March 2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements (OJ L 73, 20.3.2010, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Implementing Decision 2013/519/EU is amended in accordance with the Annex to this Decision.

Article 2

For a transitional period until 30 June 2017, Member States shall authorise imports into the Union of dogs, cats and ferrets which are accompanied by a health certificate issued not later than 31 May 2017 in accordance with the model set out in Part 1 of the Annex to Implementing Decision 2013/519/EU in its version prior to the amendments introduced by this Decision.

Article 3

This Decision shall apply from 1 June 2017.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 18 January 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

In the Annex, Part 1 is replaced by the following:

PART 1

Model animal health certificate for imports into the Union of dogs, cats and ferrets

COUNTRY:

Veterinary certificate to EU

| | | | | | | | | |
|--|---|----------|--|--|-----------------------------|---|-----------------------------|------|
| Part I: Details of dispatched consignment | I.1. Consignor Name Address Country Tel. | | I.2. Certificate reference No | | I.2.a. | | | |
| | | | I.3. Central competent authority | | | | | |
| | | | I.4. Local competent authority | | | | | |
| | I.5. Consignee Name Address Country Tel. | | I.6. | | | | | |
| | I.7. Country of origin | ISO code | I.8. | | I.9. Country of destination | ISO code | I.10. Region of destination | Code |
| | I.11. Place of origin Name Approval number Address Name Approval number Address Name Approval number Address | | I.12. Place of destination Name Approval number Address | | | | | |
| | I.13. Place of loading | | I.14. Date of departure | | | | | |
| | I.15. Means of transport Aeroplane <input type="checkbox"/> Ship <input type="checkbox"/> Railway wagon <input type="checkbox"/> Road vehicle <input type="checkbox"/> Other <input type="checkbox"/> Identification Documentary references | | I.16. Entry BIP in EU | | | | | |
| | | | I.17. | | | | | |
| | I.18. Description of commodity | | | | | I.19. Commodity code (HS code) 010619 | | |
| | | | | | I.20. Quantity | | | |
| I.21. | | | | | I.22. Number of packages | | | |
| I.23. Seal/Container No | | | | | I.24. | | | |

| | | | |
|---|--------------------------|--|-------------------------------|
| I.25. Commodities certified for: | | | |
| Others | <input type="checkbox"/> | Pets | <input type="checkbox"/> |
| | | Approved bodies | <input type="checkbox"/> |
| I.26. | | I.27. For import or admission into EU <input type="checkbox"/> | |
| I.28. Identification of the commodities | | | |
| Species (Scientific name) | Identification system | Identification number | Date of birth [dd/mm/yyyy] |
| | | | |

| COUNTRY | | Imports into the Union of dogs, cats, ferrets | |
|--|--------------------------------------|---|---------------------------------------|
| II. Health information | | II.a. Certificate reference No | II.b. |
| Transponder or tattoo alphanumeric code of the dog | Anti-echinococcus treatment | | Administering veterinarian |
| | Name and manufacturer of the product | Date [dd/mm/yyyy] and time of treatment [00:00] | Name in capitals, stamp and signature |
| | | | |
| | | | |
| | | | |
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Notes

(a) This certificate is meant for dogs (*Canis lupus familiaris*), cats (*Felis silvestris catus*) and ferrets (*Mustela putorius furo*).

(b) This certificate is valid for 10 days from the date of issue by the official veterinarian. In the case of transport by sea, that period of 10 days is extended by an additional period corresponding to the duration of the journey by sea.

Part I:

Box I.11: *Place of origin*: name and address of the dispatch establishment. Indicate approval or registration number.

Box I.12: *Place of destination*: mandatory where the animals are destined for a body, institute or centre approved in accordance with Annex C to Council Directive 92/65/EEC.

Box I.25: *Commodities certified for*: indicate ‘others’ where the animals are moved in accordance with Article 5(4) of Regulation (EU) No 576/2013 of the European Parliament and of the Council.

Box I.28: *Identification system*: select transponder or tattoo.

Identification number: indicate the transponder or tattoo alphanumeric code.

Part II:

(¹) Keep as appropriate.

(²) Any revaccination must be considered a primary vaccination if it was not carried out within the period of validity of a previous vaccination.

(³) A certified copy of the identification and vaccination details of the animals concerned shall be attached to the certificate.

(⁴) The rabies antibody titration test referred to in point II.3.1:

- must be carried out on a sample collected by a veterinarian authorised by the competent authority, at least 30 days after the date of vaccination and 3 months before the date of import;
- must measure a level of neutralising antibody to rabies virus in serum equal to or greater than 0,5 IU/ml;
- must be performed by a laboratory approved in accordance with Article 3 of Council Decision 2000/258/EC (list of approved laboratories available at http://ec.europa.eu/food/animals/pet-movement/approved-labs_en);

| COUNTRY | | Imports into the Union of dogs, cats, ferrets | | | | | | | |
|----------------------------|---|---|--|----------------------------|--------------------------|-------|-------------|--------|--|
| II. Health information | II.a. Certificate reference No | II.b. | | | | | | | |
| | <p>— does not have to be renewed on an animal, which following that test with satisfactory results, has been revaccinated against rabies within the period of validity of a previous vaccination.</p> <p>A certified copy of the official report from the approved laboratory on the result of the rabies antibody test referred to in point II.3.1 shall be attached to the certificate.</p> <p>(⁵) By certifying this result, the official veterinarian confirms that he has verified, to the best of his ability and where necessary with contacts with the laboratory indicated in the report, the authenticity of the laboratory report on the results of the antibody titration test referred to in point II.3.1.</p> <p>(⁶) In conjunction with footnote (³), the marking of the animals concerned by the implantation of a transponder or by a clearly readable tattoo applied before 3 July 2011 must be verified before any entry is made in this certificate and must always precede any vaccination, or where applicable, testing carried out on those animals.</p> <p>(⁷) The treatment against <i>Echinococcus multilocularis</i> referred to in point II.4 must:</p> <ul style="list-style-type: none"> — be administered by a veterinarian within a period of not more than 120 hours and not less than 24 hours before the time of the scheduled entry of the dogs into one of the Member States or parts thereof listed in Annex I to Commission Delegated Regulation (EU) No 1152/2011; — consist of an approved medicinal product which contains the appropriate dose of praziquantel or pharmacologically active substances, which alone or in combination, have been proven to reduce the burden of mature and immature intestinal forms of <i>Echinococcus multilocularis</i> in the host species concerned. <p>(⁸) The table referred to in point II.4 must be used to document the details of a further treatment if administered after the date the certificate was signed and prior to the scheduled entry into one of the Member States or parts thereof listed in Annex I to Commission Delegated Regulation (EU) No 1152/2011.</p> | | | | | | | | |
| | <p>Official veterinarian</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Name (in capital letters):</td> <td style="width: 50%;">Qualification and title:</td> </tr> <tr> <td>Date:</td> <td>Signature:'</td> </tr> <tr> <td>Stamp:</td> <td></td> </tr> </table> | | | Name (in capital letters): | Qualification and title: | Date: | Signature:' | Stamp: | |
| Name (in capital letters): | Qualification and title: | | | | | | | | |
| Date: | Signature:' | | | | | | | | |
| Stamp: | | | | | | | | | |

COMMISSION IMPLEMENTING DECISION (EU) 2017/99**of 18 January 2017**

amending Decision 93/195/EEC as regards animal health and veterinary certification conditions for the re-entry of registered horses for racing, competition and cultural events after temporary export to Mexico and the United States of America, and amending Annex I to Decision 2004/211/EC as regards the entries for China and Mexico in the list of third countries and parts thereof from which imports into the Union of live equidae and semen, ova and embryos of the equine species are authorised

(notified under document C(2017) 128)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

- (1) Directive 2009/156/EC lays down animal health conditions for the importation into the Union of live equidae. It provides that imports of equidae into the Union are only authorised from third countries that meet certain animal health requirements.
- (2) Commission Decision 93/195/EEC ⁽³⁾ provides models of health certificates for the re-entry of registered horses into the Union after temporary export to participate in racing, competition and cultural events. The model health certificate in Annex II to that Decision provides, amongst other things, that a registered horse temporarily exported for a period of not more than 30 days must, since its exit from the Union, only have been in the third country from where it is certified for re-entry in the Union or in a third country assigned to the same sanitary group as indicated in Annex I to that Decision.
- (3) The equestrian events of the LG Global Champions Tour will take place under the auspices of the Fédération Equestre Internationale in Miami, United States, and in the Metropolitan area of Mexico City, Mexico, from 30 March to 30 April 2017.
- (4) As the LG Global Champions Tour events in the United States and in the Metropolitan area of Mexico City will be subject to a high degree of official veterinary supervision, it is possible to lay down specific animal health and veterinary certification conditions for the re-entry into the Union of those horses that have been temporarily exported for a period of not more than 30 days for the purpose of participating in those equestrian events.
- (5) In order to authorise the re-entry into the Union between 30 March and 30 April 2017 of registered horses for racing, competition and cultural events after temporary export for the purpose of taking part in the LG Global Champion Tour in Miami and in Mexico City, and in order to provide for a model health certificate to cover such registered horses, it is necessary to amend Decision 93/195/EEC.
- (6) Decision 93/195/EEC should therefore be amended accordingly.

⁽¹⁾ OJ L 268, 14.9.1992, p. 54.

⁽²⁾ OJ L 192, 23.7.2010, p. 1.

⁽³⁾ Commission Decision 93/195/EEC of 2 February 1993 on animal health conditions and veterinary certification for the re-entry of registered horses for racing, competition and cultural events after temporary export (OJ L 86, 6.4.1993, p. 1).

- (7) Commission Decision 2004/211/EC ⁽¹⁾ establishes a list of third countries, or parts thereof where regionalisation applies, from which Member States are to authorise the importation of equidae and semen, ova and embryos thereof, and indicates the other conditions applicable to such imports. That list is set out in Annex I to Decision 2004/211/EC.
- (8) In order to host equestrian events of the LG Global Champions Tour during 30-day periods in 2014, 2015 and 2016, carried out under the auspices of the Fédération Equestre Internationale (FEI), the competent Chinese authorities requested that a part of the Metropolitan area of Shanghai be recognised as an equine disease-free zone.
- (9) In light of the guarantees and information provided by the Chinese authorities and in order to provide for the re-entry of registered horses into the Union after temporary export to a specific part of the territory of China for a limited time frame, in accordance with the requirements of Decision 93/195/EEC, the Commission adopted Implementing Decisions 2014/127/EU ⁽²⁾, (EU) 2015/557 ⁽³⁾ and (EU) 2016/361 ⁽⁴⁾ by which the region CN-2 was temporarily approved.
- (10) The competent Chinese authorities have requested that region CN-2 be recognised as an equine disease-free zone for the purpose of the 2017 LG Global Champions Tour, to be carried out under the auspices of the Fédération Equestre Internationale (FEI). Since this event will take place under the same animal health and quarantine conditions as were applicable in 2014, 2015 and 2016, it is appropriate to adapt the date in column 15 of the table in Annex I to Decision 2004/211/EC in respect of the region CN-2 in order to provide for a temporary approval of that zone only.
- (11) As the Metropolitan area of Mexico City is a region of high altitude with a reduced risk of vector-borne transmission of vesicular stomatitis or certain subtypes of Venezuelan equine encephalomyelitis, and as it is a region in which Venezuelan equine encephalomyelitis has not been reported for more than two years, authorisation should be given for the re-entry into the Union of registered horses for racing, competition and cultural events after temporary export for a period of less than 30 days to the Metropolitan area of Mexico City from 30 March 2017 to 30 April 2017. It is necessary to amend the entry for Mexico in the list in Annex I to Decision 2004/211/EC.
- (12) Decision 2004/211/EC should therefore be amended accordingly.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

Decision 93/195/EEC is amended as follows:

- (1) In Article 1, the last indent is replaced by the following:

‘— have taken part in the equestrian events of the LG Global Champions Tour in Miami, United States and Mexico City, Mexico, and meet the requirements laid down in a health certificate drawn up in accordance with the model health certificate set out in Annex X to this Decision’.

- (2) Annex X is replaced by the text in Annex I to this Decision.

⁽¹⁾ Commission Decision 2004/211/EC of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC (OJ L 73, 11.3.2004, p. 1).

⁽²⁾ Commission Implementing Decision 2014/127/EU of 7 March 2014 amending Annex I to Decision 2004/211/EC as regards the entry for China in the list of third countries and parts thereof from which imports into the Union of live equidae and semen, ova and embryos of the equine species are authorised (OJ L 70, 11.3.2014, p. 28).

⁽³⁾ Commission Implementing Decision (EU) 2015/557 of 31 March 2015 amending Annex I to Decision 2004/211/EC as regards the entry for China in the list of third countries and parts thereof from which imports into the Union of live equidae and semen, ova and embryos of the equine species are authorised (OJ L 92, 8.4.2015, p. 107).

⁽⁴⁾ Commission Implementing Decision (EU) 2016/361 of 10 March 2016 amending Annex I to Decision 2004/211/EC as regards the entry for China in the list of third countries and parts thereof from which imports into the Union of live equidae and semen, ova and embryos of the equine species are authorised (OJ L 67, 12.3.2016, p. 57).

Article 2

Annex I to Decision 2004/211/EC is amended in accordance with Annex II to this Decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 18 January 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX I

ANNEX X

HEALTH CERTIFICATE

for re-entry into the Union of registered horses after temporary export to the United States of America and to Mexico for not more than 30 days to participate in competitions in Miami and the Metropolitan area of Mexico City

Certificate No:

Specific event:

Participation in the LG Global Champions Tour in Miami, United States of America, and the Metropolitan area of Mexico City, Mexico

Third country of dispatch: Mexico ⁽³⁾/United States of America ⁽³⁾

Responsible ministry: (insert name of Ministry)

I. Identification of the horse

- (a) No of identification document:
- (b) Validated by:
(name of competent authority)

II. Origin of the horse

The horse is to be sent from:
(place of consignment)

to:
(place of destination)

by air:
(flight number)

Name and address of consignor:

Name and address of consignee:

III. Health information

I, the undersigned, certify that the horse described above meets the following requirements:

- (a) it comes from a third country where the following diseases are compulsorily notifiable: African horse sickness, dourine, glanders, equine encephalomyelitis (of all types including Venezuelan equine encephalomyelitis), equine infectious anaemia, vesicular stomatitis, rabies, anthrax;
- (b) it has been examined today and shows no clinical signs of disease ⁽¹⁾;
- (c) it is not intended for slaughter under a national programme of infectious or contagious disease eradication;
- (d) since its entry into the third country or, in the case of official regionalisation according to Union legislation, a part of the territory of the third country ⁽²⁾, it has been resident on holdings under veterinary supervision, accommodated in separated stables without coming into contact with equidae of a lower health status except during competition;
- (e) it comes from the territory or, in the case of official regionalisation according to Union legislation, from a part of a third country in which:
- (i) Venezuelan equine encephalomyelitis has not occurred during the last two years;
 - (ii) dourine has not occurred during the last six months;
 - (iii) glanders has not occurred during the last six months;

- (f) it does not come from the territory or from a part of the territory of a third country considered, in accordance with Union legislation, as infected with African horse sickness;
- (g) it does not come from a holding which was subject to a prohibition order for animal health reasons nor had contact with equidae from a holding which was subject to a prohibition order for animal health reasons which laid down the following conditions:
 - (i) if not all animals of species susceptible to one or more of the diseases referred to hereinafter were removed from the holding, the prohibition lasted for:
 - six months in the case of equine encephalomyelitis, beginning on the date on which the equidae suffering from the disease were slaughtered or removed from the premises,
 - a period required to carry out two Coggins tests three months apart giving negative results on samples taken from the animals remaining after infected animals have been slaughtered, in the case of equine infectious anaemia,
 - one month from the last recorded case, in the case of rabies,
 - 15 days from the last recorded case, in the case of anthrax;
 - (ii) if all the animals of species susceptible to the disease have been slaughtered or removed from the holding, the period of prohibition shall be 30 days, or 15 days in the case of anthrax, beginning on the day on which the premises were cleaned and disinfected following the destruction or removal of the animals;
- (h) it comes from a holding which:
 - (i) either was not subject to a prohibition order for vesicular stomatitis and the animal had no contact with equidae from a holding which was subject to such a prohibition order during the past six months ⁽³⁾; or
 - (ii) was free of vesicular stomatitis during the 30 days prior to dispatch and on which the animal was protected from vector insects during the 30 days prior to dispatch and where it underwent one of the following health tests carried out on a blood sample taken not earlier than 21 days after the commencement of the vector protection period:
 - a virus neutralisation test giving a negative result at a serum dilution of 1 in 12 ⁽³⁾,
 - a serological test carried out and giving a negative result in accordance with point B(2) of Chapter 2.1.19 of the Manual for Diagnostic Tests and Vaccines for Terrestrial Animals of the World Organisation for Animal Health (OIE) ⁽³⁾;
- (i) to the best of my knowledge, it has not been in contact with equidae suffering from an infectious or contagious disease in the 15 days prior to this Declaration.

IV. Residence and quarantine information:

- (a) The horse entered the territory of Mexico ⁽³⁾/the United States of America ⁽³⁾ on ⁽⁴⁾.
- (b) The horse arrived in Mexico ⁽³⁾/the United States of America ⁽³⁾ from a Member State of the European Union or from Mexico ⁽³⁾/the United States of America ⁽³⁾.
- (c) As far as can be ascertained, the horse has not been continuously outside the European Union for 30 days or more, including the date of scheduled return in accordance with this certificate, and has not been outside Mexico or the United States of America since exit from the European Union.

- V. The horse will be sent in a vehicle cleaned and disinfected in advance with a disinfectant officially approved in the third country of dispatch and designed in a way that droppings, litter or fodder cannot escape during transportation.

VI. This certificate is valid for 10 days.

| Date | Place | Stamp and signature of the official veterinarian ⁽¹⁾ |
|------|-------|---|
| | | |

Name in block capitals and capacity.

⁽¹⁾ The colour of the stamp and the signature must be different from that of the printing.

⁽¹⁾ This certificate must be issued on the day of loading of the animal for dispatch to the European Union or on the last working day before embarkation.

⁽²⁾ Commission Decision 2004/211/EC of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC (OJ L 73, 11.3.2004, p. 1).

⁽³⁾ Delete as appropriate.

⁽⁴⁾ Insert date of entry [dd/mm/yyyy].'

ANNEX II

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

- (1) In column 15 of the line corresponding to the region CN-2 of China, the words 'Valid from 15 April to 15 May 2016' are replaced by the words: 'Valid from 20 April to 20 May 2017'.
 - (2) In column 15 of the line corresponding to the region MX-1 of Mexico, the words 'Valid from 30 March to 30 April 2016' are replaced by the words: 'Valid from 30 March to 30 April 2017'.
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DECISION (EU) 2017/100 OF THE EUROPEAN CENTRAL BANK**of 11 January 2017****amending Decision (EU) 2015/774 on a secondary markets public sector asset purchase programme (ECB/2017/1)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular to the second subparagraph of Article 12.1 in conjunction with the first indent of Article 3.1, and Article 18.1 thereof,

Whereas:

- (1) Decision (EU) 2015/774 of the European Central Bank (ECB/2015/10) ⁽¹⁾ established a secondary markets public sector asset purchase programme (hereinafter the 'PSPP'), which expanded the Eurosystem's existing asset purchase programmes to include public sector securities. Alongside the third covered bond purchase programme, the asset-backed securities purchase programme and the corporate sector purchase programme, the PSPP is part of the expanded asset purchase programme (APP). The APP aims to further enhance the transmission of monetary policy, facilitate the provision of credit to the euro area economy, ease borrowing conditions for households and firms and contribute to returning inflation rates to levels below but close to 2 % over the medium term, consistent with the primary objective of the European Central Bank (ECB) of maintaining price stability.
- (2) The purchase of assets under the APP is a proportionate measure for mitigating the risks to the outlook for price developments, as it will further ease monetary and financial conditions, including those relevant to the borrowing conditions of euro area non-financial corporations and households, thereby supporting aggregate consumption and investment spending in the euro area and ultimately contributing to a return of inflation rates to levels below but close to 2 % over the medium term. The APP fully complies with the obligations of the Eurosystem central banks under the Treaties, including the prohibition of monetary financing, and does not impair the operation of the Eurosystem in accordance with the principle of an open market economy with free competition.
- (3) On 8 December 2016, the Governing Council decided, in line with its mandate to ensure price stability, that certain parameters of the APP should be adjusted in order to achieve the APP's objectives. The adjustments are in line with the Governing Council's monetary policy mandate, fully comply with the obligations of the Eurosystem central banks under the Treaties and duly reflect risk management considerations.
- (4) More specifically, the intended horizon of purchases under the APP should be extended until the end of December 2017, or beyond, if necessary, and in any event until the Governing Council sees a sustained adjustment in the path of inflation that is consistent with its aim of achieving inflation rates below, but close to, 2 % over the medium term.
- (5) The liquidity provided to the market through the combined monthly purchases under the APP should continue to amount to EUR 80 billion until the end of March 2017. From April 2017, the combined monthly purchases under the APP should proceed at a pace of EUR 60 billion until the end of December 2017, or beyond, if necessary, and in any case until the Governing Council sees a sustained adjustment in the path of inflation consistent with its inflation aim. If, in the meantime, the outlook becomes less favourable, or if financial conditions become inconsistent with further progress towards a sustained adjustment in the path of inflation, the Governing Council intends to increase the programme in terms of size and/or duration.
- (6) To ensure the continued smooth implementation of purchases under the APP over the intended horizon, the maturity range of the PSPP should be broadened by decreasing the minimum remaining maturity for eligible securities from 2 years to 1 year. Moreover, purchases of securities under the APP with a yield to maturity below the interest rate on the ECB's deposit facility should be permitted to the extent necessary.

⁽¹⁾ Decision (EU) 2015/774 of the European Central Bank of 4 March 2015 on a secondary markets public sector asset purchase programme (ECB/2015/10) (OJ L 121, 14.5.2015, p. 20).

(7) Therefore, Decision (EU) 2015/774 (ECB/2015/10) should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Amendments

Decision (EU) 2015/774 (ECB/2015/10) is amended as follows:

1. in Article 3, paragraph 3 is replaced by the following:

‘3. In order to be eligible for purchase under the PSPP, debt securities, within the meaning of paragraphs 1 to 2, shall have a minimum remaining maturity of 1 year and a maximum remaining maturity of 30 years at the time of their purchase by the relevant Eurosystem central bank. In order to facilitate smooth implementation, marketable debt instruments with a remaining maturity of 30 years and 364 days shall be eligible under the PSPP. National central banks shall also carry out substitute purchases of marketable debt securities issued by international organisations and multilateral development banks if the envisaged amounts to be purchased in marketable debt securities issued by central, regional or local governments and recognised agencies cannot be attained.’;

2. in Article 3, paragraph 5 is replaced by the following:

‘5. Purchases of nominal marketable debt instruments at a negative yield to maturity (or yield to worst) equal to or above the deposit facility rate are permitted. Purchases of nominal marketable debt instruments at a negative yield to maturity (or yield to worst) below the deposit facility rate are permitted to the extent necessary.’.

Article 2

Entry into force

This Decision shall enter into force on 13 January 2017.

Done at Frankfurt am Main, 11 January 2017.

For the Governing Council of the ECB

The President of the ECB

Mario DRAGHI

DECISION (EU) 2017/101 OF THE EUROPEAN CENTRAL BANK**of 11 January 2017****amending Decision ECB/2014/40 on the implementation of the third covered bond purchase programme (ECB/2017/2)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular the second subparagraph of Article 12.1 in conjunction with the first indent of Article 3.1, and Article 18.1 thereof,

Whereas:

- (1) Decision ECB/2014/40 ⁽¹⁾ established the third covered bond purchase programme (hereinafter the 'CBPP3'). Alongside the asset-backed securities purchase programme, the secondary markets public sector asset purchase programme and the corporate sector purchase programme, the CBPP3 is part of the expanded asset purchase programme (APP). The APP aims to further enhance the transmission of monetary policy, facilitate the provision of credit to the euro area economy, ease borrowing conditions for households and firms and contribute to returning inflation rates to levels below but close to 2 % over the medium term, consistent with the primary objective of the European Central Bank (ECB) of maintaining price stability.
- (2) The purchase of assets under the APP is a proportionate measure for mitigating the risks to the outlook for price developments, as it will further ease monetary and financial conditions, including those relevant to the borrowing conditions of euro area non-financial corporations and households, thereby supporting aggregate consumption and investment spending in the euro area and ultimately contributing to a return of inflation rates to levels below but close to 2 % over the medium term. The APP fully complies with the obligations of the Eurosystem central banks under the Treaties, including the prohibition of monetary financing, and does not impair the operation of the Eurosystem in accordance with the principle of an open market economy with free competition.
- (3) On 8 December 2016, the Governing Council decided, in line with its mandate to ensure price stability, that certain parameters of the APP should be adjusted in order to achieve the APP's objectives. The adjustments are in line with the Governing Council's monetary policy mandate, fully comply with the obligations of the Eurosystem central banks under the Treaties and duly reflect risk management considerations.
- (4) More specifically, the intended horizon of purchases under the APP should be extended until the end of December 2017, or beyond, if necessary, and in any event until the Governing Council sees a sustained adjustment in the path of inflation that is consistent with its aim of achieving inflation rates below, but close to, 2 % over the medium term.
- (5) The liquidity provided to the market through the combined monthly purchases under the APP should continue to amount to EUR 80 billion until the end of March 2017. From April 2017, the combined monthly purchases under the APP should proceed at a pace of EUR 60 billion until the end of December 2017, or beyond, if necessary, and in any case until the Governing Council sees a sustained adjustment in the path of inflation consistent with its inflation aim. If, in the meantime, the outlook becomes less favourable, or if financial conditions become inconsistent with further progress towards a sustained adjustment in the path of inflation, the Governing Council intends to increase the programme in terms of size and/or duration.
- (6) To ensure the continued smooth implementation of purchases under the APP over the intended horizon, purchases of securities under the APP with a yield to maturity below the interest rate on the ECB's deposit facility should be permitted to the extent necessary.

⁽¹⁾ Decision ECB/2014/40 of 15 October 2014 on the implementation of the third covered bond purchase programme (OJ L 335, 22.11.2014, p. 22).

(7) Therefore, Decision ECB/2014/40 should be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Amendment

In Article 2 of Decision ECB/2014/40, the following point 7 is added:

- ‘7. Purchases of nominal covered bonds at a negative yield to maturity (or yield to worst) equal to or above the deposit facility rate are permitted. Purchases of nominal covered bonds at a negative yield to maturity (or yield to worst) below the deposit facility rate are permitted to the extent necessary.’.

Article 2

Entry into force

This Decision shall enter into force on 13 January 2017.

Done at Frankfurt am Main, 11 January 2017.

For the Governing Council of the ECB
The President of the ECB
Mario DRAGHI

DECISION (EU) 2017/102 OF THE EUROPEAN CENTRAL BANK**of 11 January 2017****amending Decision (EU) 2015/5 on the implementation of the asset-backed securities purchase programme (ECB/2017/3)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular the second subparagraph of Article 12.1 in conjunction with the first indent of Article 3.1, and Article 18.1 thereof,

Whereas:

- (1) Decision (EU) 2015/5 of the European Central Bank (ECB/2014/45) ⁽¹⁾ established an asset-backed securities purchase programme (ABSPP). Alongside the third covered bond purchase programme, the secondary markets public sector asset purchase programme and the corporate sector purchase programme, the ABSPP is part of the expanded asset purchase programme (APP). The APP aims to further enhance the transmission of monetary policy, facilitate the provision of credit to the euro area economy, ease borrowing conditions for households and firms and contribute to returning inflation rates to levels below but close to 2 % over the medium term, consistent with the primary objective of the European Central Bank (ECB) of maintaining price stability.
- (2) The purchase of assets under the APP is a proportionate measure for mitigating the risks to the outlook for price developments, as it will further ease monetary and financial conditions, including those relevant to the borrowing conditions of euro area non-financial corporations and households, thereby supporting aggregate consumption and investment spending in the euro area and ultimately contributing to a return of inflation rates to levels below but close to 2 % over the medium term. The APP fully complies with the obligations of the Eurosystem central banks under the Treaties, including the prohibition of monetary financing, and does not impair the operation of the Eurosystem in accordance with the principle of an open market economy with free competition.
- (3) On 8 December 2016, the Governing Council decided, in line with its mandate to ensure price stability, that certain parameters of the APP should be adjusted in order to achieve the APP's objectives. The adjustments are in line with the Governing Council's monetary policy mandate, fully comply with the obligations of the Eurosystem central banks under the Treaties and duly reflect risk management considerations.
- (4) More specifically, the intended horizon of purchases under the APP should be extended until the end of December 2017, or beyond, if necessary, and in any event until the Governing Council sees a sustained adjustment in the path of inflation that is consistent with its aim of achieving inflation rates below, but close to, 2 % over the medium term.
- (5) The liquidity provided to the market through the combined monthly purchases under the APP should continue to amount to EUR 80 billion until the end of March 2017. From April 2017, the combined monthly purchases under the APP should proceed at a pace of EUR 60 billion until the end of December 2017, or beyond, if necessary, and in any case until the Governing Council sees a sustained adjustment in the path of inflation consistent with its inflation aim. If, in the meantime, the outlook becomes less favourable, or if financial conditions become inconsistent with further progress towards a sustained adjustment in the path of inflation, the Governing Council intends to increase the programme in terms of size and/or duration.
- (6) To ensure the continued smooth implementation of purchases under the APP over the intended horizon, purchases of securities under the APP with a yield to maturity below the interest rate on the ECB's deposit facility should be permitted to the extent necessary.
- (7) Therefore, Decision (EU) 2015/5 (ECB/2014/45) should be amended accordingly,

⁽¹⁾ Decision (EU) 2015/5 of the European Central Bank of 19 November 2014 on the implementation of the asset-backed securities purchase programme (ECB/2014/45) (OJ L 1, 6.1.2015, p. 4).

HAS ADOPTED THIS DECISION:

Article 1

Amendment

In Article 2 of Decision (EU) 2015/5 (ECB/2014/45), the following point (10) is added:

- ‘(10) Purchases of nominal ABSs at a negative yield to maturity (or yield to worst) equal to or above the deposit facility rate are permitted. Purchases of nominal ABSs at a negative yield to maturity (or yield to worst) below the deposit facility rate are permitted to the extent necessary.’.

Article 2

Entry into force

This Decision shall enter into force on 13 January 2017.

Done at Frankfurt am Main, 11 January 2017.

For the Governing Council of the ECB
The President of the ECB
Mario DRAGHI

DECISION (EU) 2017/103 OF THE EUROPEAN CENTRAL BANK**of 11 January 2017****amending Decision (EU) 2016/948 on the implementation of the corporate sector purchase programme (ECB/2017/4)**

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first indent of Article 127(2) thereof,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank, and in particular the second subparagraph of Article 12.1 in conjunction with the first indent of Article 3.1, and Article 18.1 thereof,

Whereas:

- (1) Decision (EU) 2016/948 of the European Central Bank (ECB/2016/16) ⁽¹⁾ established a corporate sector purchase programme (CSPP). Alongside the third covered bond purchase programme, the asset-backed securities purchase programme and the secondary markets public sector asset purchase programme, the CSPP is part of the expanded asset purchase programme (APP). The APP aims to further enhance the transmission of monetary policy, facilitate the provision of credit to the euro area economy, ease borrowing conditions for households and firms and contribute to returning inflation rates to levels below but close to 2 % over the medium term, consistent with the primary objective of the European Central Bank (ECB) of maintaining price stability.
- (2) The purchase of assets under the APP is a proportionate measure for mitigating the risks to the outlook for price developments, as it will further ease monetary and financial conditions, including those relevant to the borrowing conditions of euro area non-financial corporations and households, thereby supporting aggregate consumption and investment spending in the euro area and ultimately contributing to a return of inflation rates to levels below but close to 2 % over the medium term. The APP fully complies with the obligations of the Eurosystem central banks under the Treaties, including the prohibition of monetary financing, and does not impair the operation of the Eurosystem in accordance with the principle of an open market economy with free competition.
- (3) On 8 December 2016, the Governing Council decided, in line with its mandate to ensure price stability, that certain parameters of the APP should be adjusted in order to achieve the APP's objectives. The adjustments are in line with the Governing Council's monetary policy mandate, fully comply with the obligations of the Eurosystem central banks under the Treaties and duly reflect risk management considerations.
- (4) More specifically, the intended horizon of purchases under the APP should be extended until the end of December 2017, or beyond, if necessary, and in any event until the Governing Council sees a sustained adjustment in the path of inflation that is consistent with its aim of achieving inflation rates below, but close to, 2 % over the medium term.
- (5) The liquidity provided to the market through the combined monthly purchases under the APP should continue to amount to EUR 80 billion until the end of March 2017. From April 2017, the combined monthly purchases under the APP should proceed at a pace of EUR 60 billion until the end of December 2017, or beyond, if necessary, and in any case until the Governing Council sees a sustained adjustment in the path of inflation consistent with its inflation aim. If, in the meantime, the outlook becomes less favourable, or if financial conditions become inconsistent with further progress towards a sustained adjustment in the path of inflation, the Governing Council intends to increase the programme in terms of size and/or duration.
- (6) To ensure the continued smooth implementation of purchases under the APP over the intended horizon, purchases of securities under the APP with a yield to maturity below the interest rate on the ECB's deposit facility should be permitted to the extent necessary.
- (7) Therefore, Decision (EU) 2016/948 (ECB/2016/16) should be amended accordingly,

⁽¹⁾ Decision (EU) 2016/948 of the European Central Bank of 1 June 2016 on the implementation of the corporate sector purchase programme (ECB/2016/16) (OJ L 157, 15.6.2016, p. 28).

HAS ADOPTED THIS DECISION:

Article 1

Amendment

In Article 2 of Decision (EU) 2016/948 (ECB/2016/16), point 5 is replaced by the following:

‘5. Purchases of nominal corporate bonds at a negative yield to maturity (or yield to worst) equal to or above the deposit facility rate are permitted. Purchases of nominal corporate bonds at a negative yield to maturity (or yield to worst) below the deposit facility rate are permitted to the extent necessary.’.

Article 2

Entry into force

This Decision shall enter into force on 13 January 2017.

Done at Frankfurt am Main, 11 January 2017.

For the Governing Council of the ECB
The President of the ECB
Mario DRAGHI

