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Contents

EN

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

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

[1] Text with EEA relevance.

I

(Legislative acts)

DECISIONS

COUNCIL DECISION (EU) 2018/599

of 16 April 2018

amending Decision 2003/76/EC establishing the measures necessary for the implementation of the Protocol, annexed to the Treaty establishing the European Community, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Protocol No 37 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and in particular the first paragraph of Article 2 thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ([1]),

Acting in accordance with a special legislative procedure,

Whereas:

(1) The Treaty establishing the European Coal and Steel Community expired on 23 July 2002 in accordance with Article 97 of that Treaty. All assets and liabilities of the European Coal and Steel Community (ECSC) were transferred to the Union on 24 July 2002.

(2) Protocol No 37 takes account of the desire to use the funds of the ESCS for research in sectors related to the coal and steel industry and, therefore, the necessity to provide for certain special rules in that regard. Article 1(1) of Protocol No 37 states that the net worth of the assets and liabilities, as they appear in the balance sheet of the ECSC of 23 July 2002, is to be considered as assets intended for research in the sectors related to the coal and steel industry, referred to as the 'ECSC in liquidation'. On completion of the liquidation, they are to be referred to as the 'assets of the Research Fund for Coal and Steel'.

(3) Protocol No 37 also provides that the revenue from those assets, referred to as the 'Research Fund for Coal and Steel', is to be used exclusively for research, outside the research framework programme, in the sectors related to the coal and steel industry in accordance with the provisions of Protocol No 37 and of acts adopted on the basis thereof.

(4) On 1 February 2003 the Council adopted Decision 2003/76/EC ([2]), which establishes the rules for implementing Protocol No 37.

(5) In view of the exceptional decrease, due to the low-interest-rate environment on the capital markets in recent years, in the revenue stemming from the assets of the ECSC in liquidation dedicated to research in the sectors related to the coal and steel industry, it is necessary to revise the rules on the cancellation of commitments made under the research programme of the Research Fund for Coal and Steel ('the programme') so as to make amounts

([1]) Consent of 13 March 2018 (not yet published in the Official Journal).
([2]) Council Decision 2003/76/EC of 1 February 2003 establishing the measures necessary for the implementation of the Protocol, annexed to the Treaty establishing the European Community, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel (OJ L 29, 5.2.2003, p. 22).

corresponding to such cancellations available to the programme. Moreover, amounts corresponding to cancellations of commitments that have occurred since 24 July 2002 should also be made available to the Research Fund for Coal and Steel.

(6) For the same reason, it is also necessary to revise the rules on the amounts recovered under the programme so as to carry them over to the programme under the relevant provisions on assigned revenues of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ([1]).

(7) Decision 2003/76/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2003/76/EC is amended as follows:

(1) in Article 4, paragraphs 4 and 5 are replaced by the following:

'4. Unused revenue and appropriations deriving from this revenue still available on 31 December in any given year, as well as amounts recovered, shall be carried over automatically to the following year. Those appropriations may not be transferred to other budget items.

5. Budgetary appropriations corresponding to cancellations of commitments shall automatically lapse at the end of each financial year. Provisions for commitments released as a result of the cancellations shall be made available to the Research Fund for Coal and Steel.';

(2) the following Article is inserted:

'*Article 4a*

The amount corresponding to cancellations of commitments made since 24 July 2002 pursuant to Article 4(5) shall be made available to the Research Fund for Coal and Steel on 10 May 2018.'.

Article 2

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

Article 3

This Decision is addressed to the Member States.

Done at Luxembourg, 16 April 2018.

For the Council
The President
R. PORODZANOV

([1]) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2018/600

of 10 October 2016

on the signing, on behalf of the European Union, of the Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

(1) On 22 July 2013, the Council authorised the Commission to open negotiations with New Zealand with a view to concluding an Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters ('the Agreement'). The negotiations were successfully concluded by the initialling of the Agreement on 23 September 2015.

(2) The purpose of the Agreement is to establish the legal basis for a cooperation framework which aims to secure the supply chain and facilitate legitimate trade, as well as enable the exchange of information to ensure the proper application of customs legislation and the prevention, investigation and combating of breaches of customs legislation.

(3) The Agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

The signing, on behalf of the Union, of the Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters is hereby authorised, subject to the conclusion of that Agreement ([1]).

Article 2

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

([1]) The text of the Agreement will be published together with the decision on its conclusion.

Article 3

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

Done at Luxembourg, 10 October 2016.

For the Council
The President
G. MATEČNÁ

COUNCIL DECISION (EU) 2018/601

of 16 April 2018

on the conclusion, on behalf of the European Union, of the Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207, in conjunction with Article 218(6)(a), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament [1],

Whereas:

(1) On 22 July 2013, the Council authorised the Commission to open negotiations with New Zealand with a view to concluding an Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters ('the Agreement'). The negotiations were successfully concluded by the initialling of the Agreement on 23 September 2015. In accordance with Council Decision (EU) 2018/600 [2], the Agreement was signed on 3 July 2017.

(2) The purpose of the Agreement is to establish the legal basis for a cooperation framework which aims to secure the supply chain and facilitate legitimate trade, as well as enable the exchange of information to ensure the proper application of customs legislation and the prevention, investigation and combating of breaches of customs legislation.

(3) The Agreement should be approved,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall give, on behalf of the Union, the notification provided for in Article 21(1) of the Agreement [3].

Article 3

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

Done at Luxembourg, 16 April 2018.

For the Council
The President
R. PORODZANOV

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[1] Consent of 13 March 2018 (not yet published in the Official Journal).
[2] Council Decision (EU) 2018/600 of 10 October 2016 on the signing, on behalf of the European Union, of the Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters (see page 3 of this Official Journal).
[3] The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

AGREEMENT

between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters

THE EUROPEAN UNION (hereinafter referred to as 'the Union'), and

NEW ZEALAND,

hereinafter referred to as the 'Contracting Parties',

CONSIDERING the importance of the commercial links between New Zealand and the Union and desirous of contributing, to the benefit of both Contracting Parties, to the harmonious development of those links;

RECOGNISING that, in order to attain this objective, there should be an undertaking to develop customs cooperation;

TAKING into account the development of customs cooperation between the Contracting Parties, concerning customs procedures;

CONSIDERING that operations in breach of customs legislation are prejudicial to the economic, fiscal and commercial interests of both Contracting Parties, and recognising the importance of ensuring the accurate assessment of customs duties and other taxes;

CONVINCED that action against such operations can be made more effective by cooperation between customs authorities;

RECOGNISING the significant role of customs authorities and the importance of customs procedures in promoting trade facilitation and the protection of citizens;

AIMING to provide a framework to enhance cooperation with a view to further simplifying and harmonising customs procedures and promoting joint action in the context of relevant international initiatives, including trade facilitation and enhanced supply chain security;

RECOGNISING the significance of the Trade Facilitation Agreement negotiated under the auspices of the World Trade Organization (WTO) and highlighting the importance of its adoption and effective implementation;

BUILDING upon the core elements of the SAFE Framework of Standards to Secure and Facilitate Global Trade (hereinafter referred to as 'the SAFE Framework') of the World Customs Organization (WCO);

HAVING regard to the high level of commitment of both Contracting Parties to customs actions and cooperation in the fight against infringements of intellectual property rights;

HAVING regard to obligations imposed under international conventions already accepted by, or applied to, the Contracting Parties, as well as customs-related activities undertaken by the WTO; and

HAVING regard to the relevant instruments of the WCO, in particular the Recommendation concerning Mutual Administrative Assistance of 5 December 1953;

HAVE AGREED AS FOLLOWS:

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

1. For the purpose of this Agreement:

(a) 'customs legislation' shall mean any laws and regulations of the Union or New Zealand governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control, and administered, applied or enforced by the customs authorities of the Contracting Parties in their respective territories;

(b) 'laws and regulations of the Contracting Party', 'laws and regulations of that Contracting Party' and 'laws and regulations of each Contracting Party' shall mean the laws and regulations applicable in the Union in the circumstances, or the laws and regulations applicable in New Zealand, as the context requires;

(c) 'customs authority' shall mean, in the Union, the competent services of the European Commission (hereinafter referred to as 'the Commission') responsible for customs matters and the customs authorities of the Member States of the Union and, in New Zealand, the New Zealand Customs Service;

(d) 'applicant authority' shall mean a competent administrative authority which has been designated in a Contracting Party for this purpose and which makes a request for assistance on the basis of this Agreement;

(e) 'requested authority' shall mean a competent administrative authority which has been designated in a Contracting Party for this purpose and which receives a request for assistance on the basis of this Agreement;

(f) 'person' shall mean any natural person, any legal person, or any other entity without legal personality constituted or organised under the laws and regulations of each Contracting Party, carrying out importation, exportation, or transit of goods;

(g) 'information' shall mean data, including personal data, documents, reports, and other communications in any format, including electronic copies thereof;

(h) 'personal data' shall mean all information relating to an identified or identifiable natural person;

(i) 'operation in breach of customs legislation' shall mean any violation or attempted violation of the customs legislation.

Article 2

Territorial application

This Agreement shall apply, on the one hand, to the customs territory of the Union (as described in Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code) and, on the other hand, to the territory of New Zealand (excluding Tokelau) in which its customs legislation is in force.

Article 3

Implementation

1. This Agreement shall be implemented in accordance with the laws and regulations applicable in the Union in the circumstances and in New Zealand, including in the field of data protection, and within the available resources of their respective customs authorities.

2. Customs authorities of the Union and of New Zealand shall decide on all practical measures and arrangements necessary for the implementation of this Agreement.

Article 4

Relation to other international agreements

1. The provisions of this Agreement shall not affect the rights and obligations of either Contracting Party under any other international agreement to which either Contracting Party is a party.

2. Notwithstanding paragraph 1, the provisions of this Agreement shall take precedence over the provisions of any bilateral agreement on customs cooperation and mutual administrative assistance which has been or may be concluded between individual Member States of the Union and New Zealand, insofar as the provisions of those bilateral agreements are incompatible with those of this Agreement.

3. The provisions of this Agreement shall not affect the Union provisions governing the communication between the competent services of the Commission and the customs authorities of the Member States of the Union of any information obtained under this Agreement which could be of interest to the Union.

TITLE II

CUSTOMS COOPERATION

Article 5

Scope of the cooperation

1. Cooperation under this Agreement shall cover all matters relating to the application of customs legislation.

2. For the purpose of facilitating the legitimate trade and movement of goods, strengthening compliance of traders, protecting citizens and enforcing intellectual property rights, the customs authorities of the Union and New Zealand shall cooperate in order to:

(a) protect legitimate trade through effective enforcement of and compliance with legislative requirements;

(b) secure the supply chain to facilitate the safe movement of goods between the Union and New Zealand;

(c) maximise the contribution made by them to the work of the WCO, the WTO and other relevant international organisations in improving customs techniques and in resolving problems of customs procedures, customs enforcement and the facilitation of trade; in eliminating unnecessary burdens on economic operators; in providing for facilitation for operators with high levels of compliance; and in ensuring safeguards against fraud and illicit or damaging activities;

(d) implement international instruments and standards, applicable in the area of customs and trade, which the respective Contracting Parties have accepted, including the substantive elements of the International Convention on the Simplification and Harmonization of Customs Procedures (as revised), and the International Convention on the Harmonized Commodity Description and Coding System;

(e) implement the WTO Trade Facilitation Agreement upon its entry into force;

(f) cooperate in the research, development, testing and evaluation of new customs procedures, and in the training and exchange of personnel and provision of assistance;

(g) exchange information concerning customs legislation, its implementation, and customs procedures, particularly in the areas of simplification and modernisation of customs procedures; and

(h) develop joint initiatives relating to import, export and other customs procedures, as well as towards ensuring an effective service to the business community.

Article 6

Supply chain security and risk management

1. The Contracting Parties shall work together on the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the SAFE Framework. In particular, they shall cooperate by:

(a) reinforcing the customs-related aspects of securing the logistics chain of international trade while at the same time facilitating legitimate trade;

(b) establishing minimum standards, to the extent practicable, for risk management techniques and related requirements and programmes;

(c) establishing, where appropriate, mutual recognition of risk management techniques, risk standards, security controls, supply chain security and trade partnership programmes, including equivalent trade facilitation measures;

(d) exchanging information for supply chain security and risk management;

(e) establishing contact points for exchanging information for supply chain security and risk management;

(f) introducing, where appropriate, an interface for information exchange, including for pre-arrival or pre-departure data;

(g) collaborating in multilateral fora in which issues related to supply chain security and risk management may be appropriately raised and discussed.

TITLE III

MUTUAL ADMINISTRATIVE ASSISTANCE

Article 7

Scope of assistance

1. The customs authorities of the Union and New Zealand shall assist each other in the prevention, identification, investigation and suppression of breaches of the customs legislation.

2. Assistance under this Agreement shall not prejudice the rights and obligations of either Contracting Party on mutual assistance in criminal matters under international agreements or the laws and regulations of each Contracting Party. Nor shall it cover information obtained under powers exercised at the request of a judicial authority.

3. Assistance to recover duties, taxes or fines is not covered by this Agreement.

Article 8

Assistance on request

1. At the request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure that customs legislation is correctly applied, including information regarding activities detected or planned which are or could be operations in breach of customs legislation.

2. At the request of the applicant authority, the requested authority shall inform it of:

(a) whether goods exported from one of the Contracting Parties have been properly imported into the other, specifying where appropriate the customs procedure applied to the goods; and

(b) whether goods imported into one of the Contracting Parties have been properly exported from the other, specifying where appropriate the customs procedure applied to the goods.

3. At the request of the applicant authority, the requested authority shall, within the framework of laws and regulations applicable to the latter, take the necessary steps to ensure special surveillance of:

(a) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

(b) places where stocks of goods have been or may be stored or assembled in such a way that there are reasonable grounds for believing that those goods are intended to be used in operations in breach of customs legislation;

(c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation; and

(d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

Article 9

Spontaneous assistance

The Contracting Parties shall assist each other, at their own initiative and in accordance with the laws and regulations of each Contracting Party, if they consider that to be necessary for the correct application of customs legislation, particularly by providing information obtained pertaining to:

(a) activities which are or appear to be operations in breach of customs legislation and which may be of interest to the other Contracting Party;

(b) new means or methods employed in carrying out operations in breach of customs legislation;

(c) goods known to be subject to operations in breach of customs legislation;

(d) persons in respect of whom there are reasonable grounds for believing they are or have been involved in operations in breach of customs legislation; and

(e) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.

Article 10

Delivery and notification

1. At the request of the applicant authority, the requested authority shall, in accordance with the laws and regulations applicable to the latter, take all necessary measures in order to:

(a) deliver any documents; or

(b) notify any decisions, emanating from the applicant authority and falling within the scope of this Agreement, to an addressee residing or established in the jurisdiction of the requested authority.

2. Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority.

Article 11

Form and substance of requests for assistance

1. Requests pursuant to this Agreement shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, an oral request may be accepted, but shall be confirmed promptly in writing.

2. Requests pursuant to paragraph 1 shall include the following information:

(a) the applicant authority;

(b) the measure requested;

(c) the object of and the reason for the request;

(d) the relevant laws and regulations;

(e) indications as exact and comprehensive as possible on the goods or persons who are the target of the investigations; and

(f) a summary of the relevant facts of the enquiries already carried out.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority. That requirement shall not apply to any documents that accompany the request under paragraph 1.

4. If a request does not meet the formal requirement set out above, its correction or completion may be requested; precautionary measures may be taken in the meantime.

Article 12

Execution of requests

1. In order to comply with a request for assistance, the requested authority shall proceed promptly, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Contracting Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. This paragraph shall also apply to any other authority to which the request has been addressed in accordance with this Agreement by the requested authority when the latter cannot act on its own.

2. Requests for assistance shall be executed in accordance with the laws and regulations of the Contracting Party which receives the request.

3. Duly authorised officials of a Contracting Party may, with the agreement of the other Contracting Party and subject to the conditions laid down by the latter, be present to obtain in the offices of the requested authority or any other concerned authority in accordance with paragraph 1, information relating to activities that are or may be operations in breach of customs legislation which the applicant authority needs for the purpose of this Agreement.

4. Duly authorised officials of a Contracting Party may, with the agreement of the other Contracting Party and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

Article 13

Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries conducted pursuant to a request made under this Agreement to the applicant authority in writing together with relevant documents, certified copies of documents or other items.

2. The information communicated under paragraph 1 may be in computerised form.

3. Original files and documents shall be transmitted only upon request in cases where certified copies would be insufficient. Those originals shall be returned to the requested authority at the earliest opportunity.

Article 14

Exceptions to the obligation to provide assistance

1. Any form of assistance within the scope of this Agreement may be refused or may be subject to certain conditions or requirements, in cases where a Contracting Party is of the opinion that assistance under this Agreement would:

(a) be likely to prejudice the sovereignty of New Zealand or that of a Member State of the Union the competent authority of which has received a request to provide assistance under this Agreement;

(b) be likely to prejudice public order, security or other essential interests;

(c) violate a trade secret or prejudice legitimate commercial interests; or

(d) be incompatible with applicable laws and regulations including, but not limited to, those protecting personal privacy or the financial affairs and accounts of individuals.

2. Assistance may be postponed by the requested authority on the ground that it will interfere with an on-going investigation, prosecution or proceedings. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons thereof shall be communicated to the applicant authority without undue delay.

Article 15

Experts and witnesses

An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness before an authority in the other Contracting Party regarding the matters covered by this Agreement, and produce such objects, documents or confidential or certified copies thereof as may be needed for this purpose. The request for appearance shall indicate specifically before which authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

Article 16

Assistance expenses

The Contracting Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Agreement, except, as appropriate, for expenses payable in respect of the appearance of experts and witnesses pursuant to Article 15, and expenses payable to interpreters and translators who are not public service employees.

TITLE IV

INFORMATION EXCHANGE

Article 17

Confidentiality and protection of information

1. Any information communicated in whatever form pursuant to this Agreement shall be treated as either confidential or of a restricted nature, depending on the rules applicable in each of the Contracting Parties.

2. A Contracting Party shall not use or disclose information obtained under this Agreement except for the purposes of this Agreement, or with the prior written consent of the providing Contracting Party and subject to such caveats and restrictions as the providing Contracting Party may require. However, if either Contracting Party is required by the laws and regulations of that Contracting Party to disclose information obtained pursuant to this Agreement, it shall give notice of any such disclosure to the providing Contracting Party and wherever possible in advance of such disclosure.

3. Subject to any requirements applying to a Contracting Party by virtue of the laws and regulations of that Contracting Party, or express conditions, caveats, restrictions or handling instructions requiring greater protection, all information provided under this Agreement shall be afforded the same or higher level of security and privacy protection as that indicated by the security classification or any other handling caveats attached to the requested authority's information.

4. Personal data shall be exchanged only where the Contracting Party which may receive it undertakes to protect such data in a manner that is considered adequate by the Contracting Party that may supply such personal data.

5. Each Contracting Party shall restrict access to information received under this Agreement to those persons who need to be aware of its content.

6. Each Contracting Party shall restrict, hold and transmit information received under this Agreement using recognised security mechanisms such as passwords, encryption, or other reasonable safeguards consistent with the security classification attached to the particular information.

7. Each Contracting Party shall notify the other of any accidental or unauthorised access, use, disclosure, modification or disposal of information received under this Agreement and shall furnish full details of the accidental or unauthorised access, use, disclosure, modification or disposal of the information.

8. Where information received under this Agreement has been accidentally disclosed or modified each Contracting Party shall do everything reasonably practicable to recover or, where recovery is not possible, ensure the destruction of the modified or disclosed information.

9. Either Contracting Party may request additional protections to be placed on highly sensitive information.

10. Information shall not be processed and kept longer than necessary for the purpose of implementing this Agreement and in accordance with the requirements of each Contracting Party concerning privacy and the maintenance of public records. Each Contracting Party shall ensure the orderly disposal of information that has been received under this Agreement as provided for by the laws and regulations of that Contracting Party.

11. Nothing in this Agreement shall preclude the use of information or documents obtained in accordance with this Agreement as evidence in proceedings or charges subsequently instituted before courts or tribunals in respect of operations in breach of customs legislation. Therefore, the Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges which may subsequently be brought before the courts or tribunals use as evidence information obtained and documents consulted in accordance with this Agreement. The Contracting Party which supplied that information or gave access to those documents shall be notified of such use.

TITLE V

FINAL PROVISIONS

Article 18

Headings

The headings of the Titles and the Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

Article 19

Consultation

All questions or disputes related to the interpretation or implementation of this Agreement shall be settled by consultation between the Contracting Parties, leading where appropriate to a decision by the Joint Customs Cooperation Committee referred to in Article 20.

Article 20

Joint Customs Cooperation Committee

1. A Joint Customs Cooperation Committee (JCCC) is hereby established, consisting of representatives of the customs and other competent authorities of the Contracting Parties. It shall meet at a place, on a date and with an agenda, fixed by mutual consent.

2. The JCCC shall see to the proper functioning and implementation of this Agreement and shall examine all issues and disputes arising from its application. In doing so, the JCCC shall, inter alia:

(a) take measures necessary for customs cooperation and assistance in accordance with the objectives of this Agreement, in particular by:

(i) identifying any regulatory or legislative changes required to implement this Agreement;

(ii) identifying and establishing measures to enhance information exchange mechanisms;

(iii) identifying and establishing best practices, including best practices for the harmonisation of advance electronic cargo information requirements with international standards on inbound, outbound and transit shipments;

(iv) defining and establishing risk analysis standards for the information required to identify high-risk shipments imported into, transhipped through, or transiting New Zealand and the Union;

(v) defining and establishing measures to harmonise risk assessment standards;

(vi) defining minimum control standards and methods by which those standards may be met;

(vii) improving and establishing standards for trade partnership programmes designed to increase supply-chain security and facilitate the movement of legitimate trade; and

(viii) defining and carrying out concrete steps to establish mutual recognition of risk management techniques, risk standards, security controls and trade partnership programmes including equivalent trade facilitation measures;

(b) act as the competent body to address any issues arising in relation to the implementation of Title III;

(c) be empowered to adopt decisions to implement this Agreement, including on data transmission and mutually agreed benefits of mutual recognition of risk management techniques, risk standards, security controls and trade partnership programmes as well as other trade facilitation measures;

(d) exchange views on any points of common interest regarding customs cooperation, including future measures and the resources for them; and

(e) adopt its internal rules of procedure.

3. The JCCC shall set up the appropriate working mechanisms, including working groups, to support its work to implement this Agreement.

Article 21

Entry into force and duration

1. This Agreement shall enter into force on the first day of the month following the date on which the Contracting Parties notify each other, through diplomatic notes exchanged between them, of the completion of the procedures necessary for this purpose.

2. This Agreement may be amended by mutual consent of the Contracting Parties through diplomatic notes exchanged between them. Amendments shall enter into force under the same conditions as referred to in paragraph 1, except as otherwise agreed by the Contracting Parties.

3. Each Contracting Party may terminate this Agreement by giving notice to the other in writing. The termination shall take effect three months from the date of notification to the other Contracting Party. Requests for assistance which have been received prior to the termination of the Agreement shall be completed in accordance with the provisions of this Agreement.

Article 22

Authentic texts

This Agreement shall be drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic. In the event of any divergence between the texts of this Agreement the Contracting Parties shall refer the matter to the JCCC.

In witness whereof, the undersigned representatives, duly authorised to this effect, have signed this Agreement.

Съставено в Брюксел на трети юли през две хиляди и седемнадесета година.
Hecho en Bruselas, el tres de julio de dos mil diecisiete.
V Bruselu dne třetího července dva tisíce sedmnáct.
Udfærdiget i Bruxelles den tredje juli to tusind og sytten.
Geschehen zu Brüssel am dritten Juli zweitausendsiebzehn.
Kahe tuhande seitsmeteistkümnenda aasta juulikuu kolmandal päeval Brüsselis.
Έγινε στις Βρυξέλλες, στις τρεις Ιουλίου δύο χιλιάδες δεκαεπτά.
Done at Brussels on the third day of July in the year two thousand and seventeen.
Fait à Bruxelles, le trois juillet deux mille dix-sept.
Sastavljeno u Bruxellesu trećeg srpnja godine dvije tisuće sedamnaeste.
Fatto a Bruxelles, addì tre luglio duemiladiciassette.
Briselē, divi tūkstoši septiņpadsmitā gada trešajā jūlijā.
Priimta du tūkstančiai septynioliktų metų liepos trečią dieną Briuselyje.
Kelt Brüsszelben, a kétezer-tizenhetedik év július havának harmadik napján.
Magħmul fi Brussell, fit-tielet jum ta' Lulju fis-sena elfejn u sbatax.
Gedaan te Brussel, drie juli tweeduizend zeventien.
Sporządzono w Brukseli dnia trzeciego lipca roku dwa tysiące siedemnastego.
Feito em Bruxelas, em três de julho de dois mil e dezassete.
Întocmit la Bruxelles la trei iulie două mii șaptesprezece.
V Bruseli tretieho júla dvetisícsedemnásť.
V Bruslju, dne tretjega julija leta dva tisoč sedemnajst.
Tehty Brysselissä kolmantena päivänä heinäkuuta vuonna kaksituhattaseitsemäntoista.
Som skedde i Bryssel den tredje juli år tjugohundrasjutton.

За Европейския съюз
Por la Unión Europea
Za Evropskou unii
For Den Europæiske Union
Für die Europäische Union
Euroopa Liidu nimel
Για την Ευρωπαϊκή Ένωση
For the European Union
Pour l'Union européenne
Za Europsku uniju
Per l'Unione europea
Eiropas Savienības vārdā –
Europos Sąjungos vardu
Az Európai Unió részéről
Għall-Unjoni Ewropea
Voor de Europese Unie
W imieniu Unii Europejskiej
Pela União Europeia
Pentru Uniunea Europeană
Za Európsku úniu
Za Evropsko unijo
Euroopan unionin puolesta
För Europeiska unionen

За Нова Зеландия
Por Nueva Zelanda
Za Nový Zéland
For New Zealand
Für Neuseeland
Uus-Meremaa nimel
Για τη Νέα Ζηλανδία
For New Zealand
Pour la Nouvelle-Zélande
Za Novi Zeland
Per la Nuova Zelanda
Jaunzēlandes vārdā –
Naujosios Zelandijos vardu
Új-Zéland részéről
Għal New Zealand
Voor Nieuw-Zeeland
W imieniu Nowej Zelandii
Pela Nova Zelândia
Pentru Noua Zeelandă
Za Nový Zéland
Za Novo Zelandijo
Uuden-Seelannin puolesta
För Nya Zeeland

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) 2018/602

of 19 April 2018

implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 ([1]), and in particular Article 47(2) thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 30 August 2017 the Council adopted Regulation (EU) 2017/1509.

(2) The Democratic People's Republic of Korea (DPRK) is continuing its nuclear and ballistic programmes in breach of its obligations as set out in several United Nations Security Council resolutions. Those programmes are financed in part by illicit transfers of funds and economic resources.

(3) Four persons who provided for the transfer of assets or resources that could financially contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes should be added to the list of persons and entities in Annex XV to Regulation (EU) 2017/1509.

(4) Annex XV to Regulation (EU) 2017/1509 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XV to Regulation (EU) 2017/1509 is amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the date 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 April 2018.

For the Council
The President
E. ZAHARIEVA

([1]) OJ L 224, 31.8.2017, p. 1.

ANNEX

In Annex XV to Regulation (EU) 2017/1509, the following persons are added to the list of persons set out under the heading '(c) Natural persons designated in accordance with point (b) of Article 34(4)':

	Name (and possible aliases)	Identifying information	Date of designation	Reasons
'9.	KIM Yong Nam (KIM Yong-Nam, KIM Young-Nam, KIM Yong-Gon)	DOB: 2.12.1947 POB: Sinuju, DPRK	20.4.2018	KIM Yong Nam has been identified by the Panel of Experts as an agent of the Reconnaissance General Bureau, an entity which has been designated by the United Nations. He and his son KIM Su Gwang have been identified by the Panel of Experts as engaging in a pattern of deceptive financial practices which could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes. KIM Yong Nam has opened various current and savings accounts in the Union and has been involved in various large bank transfers to bank accounts in the Union or to accounts outside the Union while working as a diplomat, including to accounts in the name of his son KIM Su Gwang and daughter-in-law KIM Kyong Hui.
10.	DJANG Tcheul Hy	DOB: 11.5.1950 POB: Kangwon	20.4.2018	DJANG Tcheul Hy has been involved together with her husband KIM Yong Nam, her son KIM Su Gwang and her daughter-in-law KIM Kyong Hui in a pattern of deceptive financial practices which could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes. She was the owner of several bank accounts in the Union which were opened by her son KIM Su Gwang in her name. She was also involved in several bank transfers from accounts from her daughter-in-law KIM Kyong Hui to bank accounts outside the Union.
11.	KIM Su Gwang (KIM Sou-Kwang, KIM Sou-Gwang, KIM Son-Kwang, KIM Su-Kwang, KIM Soukwang)	DOB: 18.8.1976 POB: Pyongyang, DPRK Diplomat, DPRK Embassy Belarus	20.4.2018	KIM Su Gwang has been identified by the Panel of Experts as an agent of the Reconnaissance General Bureau, an entity which has been designated by the United Nations. He and his father KIM Yong Nam have been identified by the Panel of Experts as engaging in a pattern of deceptive financial practices which could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes. KIM Su Gwang has opened multiple bank accounts in several Member States, including under family members' names. He has been involved in various large bank transfers to bank accounts in the Union or to accounts outside the Union while working as a diplomat, including to accounts in the name of his spouse KIM Kyong Hui.
12.	KIM Kyong Hui	DOB: 6.5.1981 POB: Pyongyang, DPRK	20.4.2018	KIM Kyong Hui has been involved together with her husband KIM Su Gwang, her father-in-law KIM Yong Nam and her mother-in-law DJANG Tcheul Hy in a pattern of deceptive financial practices which could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes. She received several bank transfers from her husband KIM Su Gwang and father-in-law KIM Yong Nam, and transferred money to accounts outside the Union in her name or the name of her mother-in-law, DJANG Tcheul Hy.'

COMMISSION IMPLEMENTING REGULATION (EU) 2018/603

of 12 April 2018

concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ([1]), and in particular Article 57(4) and Article 58(2) thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ([2]), it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.

(2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.

(3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information issued in respect of the goods concerned by this Regulation which does not conform to this Regulation may, for a certain period, continue to be invoked by the holder in accordance with Article 34(9) of Regulation (EU) No 952/2013. That period should be set at three months.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column (1) of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN code indicated in column (2) of that table.

Article 2

Binding tariff information which does not conform to this Regulation may continue to be invoked in accordance with Article 34(9) of Regulation (EU) No 952/2013 for a period of three months from the date of entry into force of this Regulation.

Article 3

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 269, 10.10.2013, p. 1.
([2]) Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

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

Done at Brussels, 12 April 2018.

For the Commission,
On behalf of the President,
Stephen QUEST
Director-General
Directorate-General for Taxation and Customs Union

ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
An inflatable cushion of plastics (so-called 'wheelchair cushion'), measuring approximately 40 × 40 cm, consisting of two rectangular interconnected chambers filled with air. Each chamber contains an air filled bag of plastics covered with a thin layer of silicone. The cushion is adjustable according to the degree to which the two chambers are inflated, which causes the position of the bag of plastics in each chamber to shift when the user is sitting on the cushion. The cushion has a removable anti-slip cover of textile materials that has two 'velcro'-type straps attached to its underside. The article is intended to prevent the user developing pressure sores. It provides a relieving effect on the seat bones and improves the comfort of the user. See images (*)	3926 90 97	Classification is determined by general rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 3926, 3926 90 and 3926 90 97. Classification of the article under heading 9404 (articles of bedding and similar furnishing) is excluded because pneumatic cushions are excluded from this heading within the meaning of note 1 (a) to Chapter 94 and, consequently, pneumatic cushions of plastics are classified under heading 3926 (see also the Harmonized System Explanatory Notes (HSEN) to heading 9404, last paragraph, (b)). Classification under CN code 8714 20 00 as parts and accessories of carriages for disabled persons is also excluded, because the article is not identifiable as being suitable for use solely or principally with carriages for disabled persons within the meaning of note 3 to Section XVII. Considering its objective characteristics, the article can be used on many seats and chairs as well as on seats of wheelchairs. For example, the article is not designed for use with a specific seat, because it has no specific means by which it can be attached that would identify it for use with a specific seat. The anti-slip cover and the 'velcro'-type straps can be attached to many different types of seats. There is therefore nothing to identify the article as being designed for use with a specific type of seat (see also the HSEN to heading 8714, first paragraph, (i)). Moreover, classification under CN code 8714 20 00 as parts and accessories of carriages for disabled persons is excluded because the article is neither indispensable for the functioning of the wheelchair, nor does it adapt the wheelchair for a particular operation or increase its range of operations or enable it to perform a particular service connected with its main function which is enabling a handicapped person to move (see judgment of the Court of 16 June 2011, *Unomedical*, C-152/10, ECLI:EU:C:2011:402, paragraphs 29, 30 and 36). A wheelchair operates in the same way as it does without the cushion. The cushion merely makes the wheelchair more comfortable and endurable for the user.

(1)	(2)	(3)
		Although the article consists of different components (the cushion of plastics and the cover of textile materials), the article is to be classified as if it consisted of the cushion of plastics because the cushion gives the article its essential character within the meaning of general rule 3 (b). The textile component is merely a cover that protects and keeps the essential component in place. The article is therefore to be classified according to its constituent material under CN code 3926 90 97 as 'other articles of plastics'.

(*) The images are purely for information.

COMMISSION IMPLEMENTING REGULATION (EU) 2018/604

of 18 April 2018

amending Implementing Regulation (EU) 2015/2447 as regards the procedural rules to facilitate the establishment in the Union of the preferential origin of goods, and repealing Regulations (EEC) No 3510/80 and (EC) No 209/2005

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ([1]), and in particular Article 66(a) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) 2015/2447 ([2]) lays down, inter alia, the procedural rules, referred to in Article 64(1) of Regulation (EU) No 952/2013 ('the Code'), to facilitate the establishment in the Union of the preferential origin of goods.

(2) The last sentence of Article 68(1) of Implementing Regulation (EU) 2015/2447 currently refers to an application *mutatis mutandis* of Subsections 2 to 9 of Section 2 of that Regulation, which relate to rules of origin for the Generalised System of Preferences (GSP) scheme of the Union. However, only some provisions of those subsections are relevant in the context of the registration of exporters outside the framework of the GSP scheme of the Union. It is therefore necessary to specify those provisions. Since the obligation for the Commission to provide a third country with which the Union has a preferential arrangement with the addresses of the customs authorities responsible for the verification of a document on origin completed by a registered exporter results in any event from the provisions of the arrangement concerned and, therefore, it should no longer be laid down in Implementing Regulation (EU) 2015/2447. The transitional provision laid down in Implementing Regulation (EU) 2015/2447 provisionally allowing an exporter who has not been registered but is an approved exporter in the Union to complete a document on origin has become obsolete and should be abolished. For reasons of simplification and consistency amongst preferential arrangements, small consignments not imported by way of trade should be exempted from the presentation of a document on origin where such exemption is allowed but not directly established in the preferential arrangement. Considering that there are other ways to identify the exporter and that the signature does not contribute in the Union to the legal status of a document on origin, exporters should not be required to sign such document where this is allowed but not directly established by the preferential arrangement.

(3) The rules laid down in Article 69 of Implementing Regulation (EU) 2015/2447 regarding the replacement of proofs of preferential origin issued or made out outside the framework of the GSP scheme of the Union should apply more broadly to documents on origin. Additionally, the form in which a replacement document on origin can be issued or made out should be clarified.

(4) Rules should be laid down with the purpose to facilitate the establishment in the Union of the preferential origin of processed products obtained from goods having preferential originating status. Since those rules aim at preventing the economic operators concerned from the adverse and unintended consequences of the merger in the Code of the processing under customs control procedure with the inward processing procedure, they should apply retroactively from the date of application of the Code.

([1]) OJ L 269, 10.10.2013, p. 1.

([2]) Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

(5) Article 80(2) of Implementing Regulation (EU) 2015/2447 should include a reference to a new Annex 22-06A containing the application form to be used by exporters of Member States to register in the REX system, Annex 22-06 being thus reserved to the registration of exporters in GSP beneficiary countries. Consequently, that new Annex 22-06A needs to be inserted in Implementing Regulation (EU) 2015/2447, while Annex 22-06 to that Regulation should be amended accordingly. Articles 82, 83 and 86 of Implementing Regulation (EU) 2015/2447 should also be amended as a consequence of the introduction of the new Annex 22-06A. Considering that there are other ways to identify the exporter and that the signature does not contribute in the Union to the legal status of the document, exporters should not be required to sign the statement on origin referred to in Article 92 of Implementing Regulation (EU) 2015/2447. Paragraphs 1, 2 and 3 of that Article should apply *mutatis mutandis* to statements on origin made out by exporters in the Union not only for the purpose of bilateral cumulation as referred to in Article 53 of Commission Delegated Regulation (EU) 2015/2446 ([1]), but also to declare the origin of goods exported to a beneficiary country of the GSP schemes of Norway, Switzerland or Turkey for the purpose of cumulation with materials originating in the Union. Article 92 of Implementing Regulation (EU) 2015/2447 should therefore be amended accordingly.

(6) Annex 22-07 to Implementing Regulation (EU) 2015/2447 should be amended in order to specify the symbol to be indicated by the exporter when the statement on origin relates to products originating in Ceuta and Melilla. It should also be amended to reflect that when the statement on origin relates to products originating in the Union, the exporter must indicate the origin by means of the symbol 'EU'.

(7) Commission Regulation (EEC) No 3510/80 ([2]) has become obsolete, given that the provisions which were provided for in that Regulation have been replaced by provisions now laid down in Delegated Regulation (EU) 2015/2446 and Implementing Regulation (EU) 2015/2447. Therefore, it should be repealed for the sake of legal certainty and transparency.

(8) Commission Regulation (EC) No 209/2005 ([3]) grants derogations from the obligation laid down in Council Regulation (EC) No 1541/98 ([4]) to present the proof of origin for textile products falling within Section XI of the Combined Nomenclature. Regulation (EC) No 1541/98 has been repealed by Regulation (EU) No 955/2011 of the European Parliament and of the Council ([5]). Therefore, Regulation (EC) No 209/2005 has become obsolete and should be repealed for the sake of legal certainty and transparency.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2015/2447 is amended as follows:

(1) Article 68 is amended as follows:

(a) the last sentence of paragraph 1 is replaced by the following:

'Articles 80, 82, 83, 84, 86, 87, 89 and 91 of this Regulation shall apply *mutatis mutandis*.'

([1]) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

([2]) Commission Regulation (EEC) No 3510/80 of 23 December 1980 on the definition of the concept of originating products for purposes of the application of tariff preferences granted by the European Economic Community in respect of certain products from developing countries (OJ L 368, 31.12.1980, p. 1).

([3]) Commission Regulation (EC) No 209/2005 of 7 February 2005 establishing the list of textile products for which no proof of origin is required on release for free circulation in the Community (OJ L 34, 8.2.2005, p. 6.)

([4]) Council Regulation (EC) No 1541/98 of 13 July 1998 on proof of origin for certain textile products falling within Section XI of the Combined Nomenclature and released for free circulation in the Community, and on the conditions for the acceptance of such proof (OJ L 202, 18.7.1998, p. 11).

([5]) Regulation (EU) No 955/2011 of the European Parliament and of the Council of 14 September 2011 repealing Council Regulation (EC) No 1541/98 on proof of origin for certain textile products falling within Section XI of the Combined Nomenclature and released for free circulation in the Community and on the conditions for the acceptance of such proof, and amending Council Regulation (EEC) No 3030/93 on common rules for imports of certain textile products from third countries (OJ L 259, 4.10.2011, p. 5).

(b) in the first sentence of paragraph 2, the words 'Articles 10 and 15' are replaced by the words 'Articles 10(1) and 15'.

(c) paragraphs 3 and 5 are deleted.

(d) The following new paragraphs 6 and 7 are inserted:

'6. Where a preferential arrangement allows the Union to exempt originating products from the requirement to provide a document on origin, that exemption shall apply under the conditions laid down in Article 103, insofar as those conditions are not provided for in the preferential arrangement concerned.

7. Where a preferential arrangement allows the Union to waive the requirement for a document on origin to be signed by the exporter, no such signature shall be required.'

(2) Article 69 is replaced by the following:

'*Article 69*

Replacement of documents on origin issued or made out outside the framework of the GSP scheme of the Union

(Article 64(1) of the Code)

1. Where originating products covered by a document on origin issued or made out previously for the purposes of a preferential tariff measure as referred to in Article 56(2)(d) or (e) of the Code other than the GSP scheme of the Union have not yet been released for free circulation and are placed under the control of a customs office in the Union, the initial document on origin may be replaced by one or more replacement documents on origin for the purposes of sending all or some of those products elsewhere within the Union.

2. The replacement document on origin referred to in paragraph 1 may be issued for, or made out by, any of the following, in the same form as the initial document on origin or in the form of a replacement statement on origin, drawn up *mutatis mutandis* in accordance with Article 101 and Annex 22-20:

(a) an exporter approved or registered in the Union and re-consigning the goods;

(b) a re-consignor of the goods in the Union where the total value of originating products in the initial consignment to be split does not exceed the applicable value threshold;

(c) a re-consignor of the goods in the Union where the total value of originating products in the initial consignment to be split exceeds the applicable value threshold, and the re-consignor attaches a copy of the initial document on origin to the replacement document on origin.

Where the replacement of the initial document on origin is not possible in accordance with the first subparagraph, the replacement document on origin referred to in paragraph 1 may be issued in the form of a movement certificate EUR.1 by the customs office under whose control the goods are placed.

3. Where the replacement document on origin is a movement certificate EUR.1, the endorsement made by the customs office issuing the replacement movement certificate EUR.1 shall be placed in box 11 of the certificate. The particulars in box 4 of the certificate concerning the country of origin shall be identical to those particulars in the initial document on origin. Box 12 shall be signed by the re-consignor. A re-consignor who signs box 12 in good faith shall not be responsible for the accuracy of the particulars entered on the initial document on origin.

The customs office which is requested to issue the replacement movement certificate EUR.1 shall note on the initial document on origin or on an attachment thereto the weights, numbers, nature of the products forwarded and their country of destination, and indicate thereon the serial numbers of the corresponding replacement certificate or certificates. It shall keep the initial document on origin for at least 3 years.'

(3) The following Article 69a is inserted:

'*Article 69a*

Preferential origin of processed products obtained from goods having preferential originating status

(Article 64(1) of the Code)

1. Where non-Union goods having preferential originating status in the framework of a preferential arrangement between the Union and third countries, are placed under the inward processing procedure, processed products obtained therefrom shall, when released for free circulation, be deemed to have the same preferential originating status as those goods.

2. Paragraph 1 shall not apply in any of the following cases:

(a) the processing operation also involves non-Union goods other than those referred to in paragraph 1, including goods having preferential originating status under a different preferential arrangement;

(b) the processed products are obtained from equivalent goods referred to in Article 223 of the Code;

(c) the customs authorities have authorised temporary re-export of the goods for further processing in accordance with Article 258 of the Code.

3. Where paragraph 1 applies, a document on origin issued or made out for the goods placed under the inward processing procedure shall be deemed to be a document on origin issued or made out for the processed products.';

(4) Paragraph 2 of Article 80 is replaced by the following:

'2. The competent authorities of beneficiary countries shall upon receipt of the complete application form referred to in Annex 22-06 assign without delay the number of registered exporter to the exporter and enter into the REX system the number of registered exporter, the registration data and the date from which the registration is valid in accordance with Article 86(4).

The customs authorities of Member States shall upon receipt of the complete application form referred to in Annex 22-06A assign without delay the number of registered exporter to the exporter or, where appropriate, the re-consignor of goods and enter into the REX system the number of registered exporter, the registration data and the date from which the registration is valid in accordance with Article 86(4).

The competent authorities of a beneficiary country or the customs authorities of a Member State shall inform the exporter or, where appropriate, the re-consignor of goods of the number of registered exporter assigned to that exporter or re-consignor of goods and of the date from which the registration is valid.';

(5) Article 82 is amended as follows:

(a) paragraph 7 is replaced by the following:

'7. The Commission shall make the following data available to the public on condition that consent has been given by the exporter by signing box 6 of the form set out in Annex 22-06 or Annex 22-06A, as applicable:

(a) name of the registered exporter as specified in box 1 of the form set out in Annex 22-06 or Annex 22-06A, as appropriate;

(b) address of the place where the registered exporter is established as specified in box 1 of the form set out in Annex 22-06 or Annex 22-06A, as appropriate;

(c) contact details as specified in box 1 and box 2 of the form set out in Annex 22-06 or Annex 22-06A, as appropriate;

(d) indicative description of the goods which qualify for preferential treatment, including indicative list of Harmonised System headings or chapters, as specified in box 4 of the form set out in Annex 22-06 or Annex 22-06A, as appropriate;

(e) EORI number of the registered exporter as specified in box 1 of the form set out in Annex 22-06A, or the trader identification number (TIN) of the registered exporter as specified in box 1 of the form set out in Annex 22-06;

(f) whether the registered exporter is a trader or a producer as specified in box 3 of the form set out in Annex 22-06 or Annex 22-06A, as appropriate.

The refusal to sign box 6 shall not constitute a ground for refusing to register the exporter.'

(b) in paragraph 8, the following point (b) is inserted after point (a) and current points (b) to (e) are renumbered accordingly:

'(b) the date of registration of the registered exporter;'

(6) Article 83 is amended as follows:

(a) in paragraph 2, the words 'or in Annex 22-06A, as appropriate' are added after the words 'Annex 22-06';

(b) in paragraph 4, the words 'or in Annex 22-06A, as appropriate' are added after the words 'Annex 22-06';

(7) In Article 86(2), the words 'Annex 22-06' are replaced by the words 'Annex 22-06A';

(8) Article 92 is amended as follows:

(a) in paragraph 3, the following subparagraph is added:

'The exporter shall not be required to sign the statement on origin.';

(b) paragraph 4 is replaced by the following:

'4. Paragraphs 1, 2 and 3 shall apply *mutatis mutandis* to the following:

(a) statements on origin made out in the Union for the purpose of bilateral cumulation as referred to in Article 53 of Delegated Regulation (EU) 2015/2446;

(b) statements on origin of goods exported to a beneficiary country of the GSP schemes of Norway, Switzerland or Turkey for the purpose of cumulation with materials originating in the Union.';

(9) Annex 22-06 is replaced by the text set out in Annex I to this Regulation;

(10) After Annex 22-06, a new Annex 22-06A is inserted as set out in Annex II to this Regulation;

(11) In Annex 22-07, footnote 5 is replaced by the following:

'([5]) Country of origin of products to be indicated. When the statement on origin relates to products originating in the Union, the exporter must indicate the origin by means of the symbol "EU". When the statement on origin relates, in whole or in part, to products originating in Ceuta and Melilla as referred to in Article 112 of Implementing Regulation (EU) 2015/2447, the exporter must indicate the origin by means of the symbol "CM".'.

Article 2

Regulation (EEC) No 3510/80 is repealed.

Article 3

Regulation (EC) No 209/2005 is repealed.

Article 4

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

Point 3 of Article 1 shall apply from 1 May 2016.

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

Done at Brussels, 18 April 2018.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX I

'ANNEX 22-06

APPLICATION TO BECOME A REGISTERED EXPORTER

for the purpose of schemes of generalised tariff preferences of the European Union, Norway, Switzerland and Turkey [1]

1. Exporter's name, full address and country, contact details, TIN.
2. Additional contact details including telephone and fax number as well as email address where available (optional).
3. Specify whether the main activity is producing or trading.
4. Indicative description of goods which qualify for preferential treatment, including indicative list of Harmonised System headings (or chapters where goods traded fall within more than twenty Harmonised System headings).
5. Undertakings to be given by an exporter **The undersigned hereby:** **— declares that the above details are correct;** **— certifies that no previous registration has been revoked; conversely, certifies that the situation which led to any such revocation has been remedied;** **— undertakes to make out statements on origin only for goods which qualify for preferential treatment and comply with the origin rules specified for those goods in the Generalised System of Preferences;** **— undertakes to maintain appropriate commercial accounting records for production/supply of goods qualifying for preferential treatment and to keep them for at least three years from the end of the calendar year in which the statement on origin was made out;** **— undertakes to immediately notify the competent authority of changes as they arise to his registration data since acquiring the number of registered exporter;** **— undertakes to cooperate with the competent authority;**

— **undertakes to accept any checks on the accuracy of his statements on origin, including verification of accounting records and visits to his premises by the European Commission or Member States' authorities, as well as the authorities of Norway, Switzerland and Turkey;**

— **undertakes to request the revocation of his registration in the system, should he no longer meet the conditions for exporting any goods under the scheme;**

— **undertakes to request the revocation of his registration in the system, should he no longer intend to export such goods under the scheme.**

_____

Place, date, signature of authorised signatory, name and job title [2]

6. Prior specific and informed consent of exporter to the publication of his data on the public website

The undersigned is hereby informed that the information supplied in this declaration may be disclosed to the public via the public website. The undersigned accepts the publication of this information via the public website. The undersigned may withdraw his consent to the publication of this information via the public website by sending a request to the competent authorities responsible for the registration.

_____

Place, date, signature of authorised signatory, name and job title [2]

7. Box for official use by competent authority

The applicant is registered under the following number:

Registration Number: _____

Date of registration _____

Date from which the registration is valid _____

Signature and stamp [2] _____

Information notice

concerning the protection and processing of personal data incorporated in the system

1. Where the European Commission processes personal data contained in this application to become a registered exporter, Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data applies. Where the competent authorities of a beneficiary country or a third country implementing Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data process personal data contained in this application to become a registered exporter, the relevant national provisions implementing that Directive apply.

2. Personal data in respect of the application to become a registered exporter are processed for the purpose of Union GSP rules of origin as defined in the relevant Union legislation. The said legislation providing for Union GSP rules of origin constitutes the legal basis for processing personal data in respect of the application to become a registered exporter.

3. The competent authority in a country where the application has been submitted is the controller with respect to processing of the data in the REX system.

   The list of competent authorities is published on the website of the Commission.

4. Access to all data of this application is granted through a user ID/password to users in the Commission, the competent authorities of beneficiary countries and the customs authorities in the Member States, Norway, Switzerland and Turkey.

5. The data of a revoked registration shall be kept by the competent authorities of the beneficiary country in the REX system for ten calendar years. This period shall run from the end of the year in which the revocation of a registration has taken place.

6. The data subject has a right of access to the data relating to him that will be processed through the REX system and, where appropriate, the right to rectify, erase or block data in accordance with Regulation (EC) No 45/2001 or the national laws implementing Directive 95/46/EC. Any requests for right of access, rectification, erasure or blocking shall be submitted to and processed by the competent authorities of beneficiary countries responsible for the registration, as appropriate. Where the registered exporter has submitted a request for the exercise of that right to the Commission, the Commission shall forward such requests to the competent authorities of the beneficiary country concerned. If the registered exporter failed to obtain his rights from the controller of data, the registered exporter shall submit such request to the Commission acting as controller. The Commission shall have the right to rectify, erase or block the data.

7. Complaints can be addressed to the relevant national data protection authority. The contact details of the national data protection authorities are available on the website of the European Commission, Directorate-General for Justice: (http://ec.europa.eu/justice/data-protection/bodies/authorities/eu/index_en.htm#h2-1).

   Where the complaint concerns processing of data by the European Commission, it should be addressed to the European Data Protection Supervisor (EDPS) (http://www.edps.europa.eu/EDPSWEB/).

(1) The present application form is common to the GSP schemes of four entities: the Union (EU), Norway, Switzerland and Turkey ('the entities'). Please note, however, that the respective GSP schemes of these entities may differ in terms of country and product coverage. Consequently, a given registration will only be effective for the purpose of exports under the GSP scheme(s) that consider(s) your country as a beneficiary country.

(2) When applications to become a registered exporter or other exchanges of information between registered exporters and competent authorities in beneficiary countries or customs authorities in Member States are made using electronic data-processing techniques, the signature and stamp referred to in boxes 5, 6 and 7 shall be replaced by an electronic authentication.'

ANNEX II

'ANNEX 22-06A

APPLICATION TO BECOME A REGISTERED EXPORTER

for the purpose of the registration of exporters of the Member States

1. Exporter's name, full address and country, contact details, EORI number.
2. Additional contact details including telephone and fax number as well as email address where available (optional).
3. Specify whether the main activity is producing or trading.
4. Indicative description of goods which qualify for preferential treatment, including indicative list of Harmonised System headings (or chapters where goods traded fall within more than twenty Harmonised System headings).
5. Undertakings to be given by an exporter **The undersigned hereby:** **— declares that the above details are correct;** **— certifies that no previous registration has been revoked; conversely, certifies that the situation which led to any such revocation has been remedied;** **— undertakes to make out statements on origin and other documents on origin only for goods which qualify for preferential treatment and comply with the origin rules specified for those goods in the preferential arrangement concerned;** **— undertakes to maintain appropriate commercial accounting records for production/supply of goods qualifying for preferential treatment and to keep them for as long as required by the preferential arrangement concerned, and at least three years from the end of the calendar year in which the statement on origin or the other document on origin was made out;** **— undertakes to immediately notify the customs authorities of changes as they arise to his registration data since acquiring the number of registered exporter;** **— undertakes to cooperate with the customs authorities;**

— **undertakes to accept any checks on the accuracy of his statements on origin or other documents on origin, including verification of accounting records and visits to his premises by the European Commission or Member States' authorities;**

— **undertakes to request the revocation of his registration in the system, should he no longer meet the conditions for applying the Registered Exporter system;**

— **undertakes to request the revocation of his registration in the system, should he no longer intend to use the Registered Exporter system.**

_____

Place, date, signature of authorised signatory, name and job title [1]

6. Prior specific and informed consent of exporter to the publication of his data on the public website

The undersigned is hereby informed that the information supplied in this declaration may be disclosed to the public via the public website. The undersigned accepts the publication of this information via the public website. The undersigned may withdraw his consent to the publication of this information via the public website by sending a request to the competent authorities responsible for the registration.

_____

Place, date, signature of authorised signatory, name and job title [1]

7. Box for official use by customs authorities

The applicant is registered under the following number:

Registration Number: _____

Date of registration _____

Date from which the registration is valid _____

Signature and stamp [1] _____

Information notice

concerning the protection and processing of personal data incorporated in the system

1. Where the European Commission processes personal data contained in this application to become a registered exporter, Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data will apply.

2. Personal data in respect of the application to become a registered exporter are processed for the purposes of the rules of origin of the relevant preferential trade arrangements of the Union. The rules of origin laid down in Commission Implementing Regulation (EU) 2015/2447 constitute the legal bases for processing personal data in respect of the application to become a registered exporter.

3. The customs authorities in a country where the application has been submitted is the controller with respect to processing of the data in the REX system.

   The list of customs departments is published on the website of the Commission.

4. Access to all data of this application is granted through a user ID/password to users in the Commission, and the customs authorities in the Member States, Norway, Switzerland and Turkey.

5. The data of a revoked registration shall be kept by the customs authorities of Member States in the REX system for ten calendar years. This period shall run from the end of the year in which the revocation of a registration has taken place.

6. The data subject has a right of access to the data relating to him that will be processed through the REX system and, where appropriate, the right to rectify, erase or block data in accordance with Regulation (EC) No 45/2001 or the national laws implementing Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Any requests for right of access, rectification, erasure or blocking shall be submitted to and processed by the customs authorities of Member States responsible for the registration, as appropriate. Where the registered exporter has submitted a request for the exercise of that right to the Commission, the Commission shall forward such requests to the customs authorities of Member States concerned, respectively. If the registered exporter failed to obtain his rights from the controller of data, the registered exporter shall submit such request to the Commission acting as controller. The Commission shall have the right to rectify, erase or block the data.

7. Complaints can be addressed to the relevant national data protection authority. The contact details of the national data protection authorities are available on the website of the European Commission, Directorate-General for Justice: (http://ec.europa.eu/justice/data-protection/bodies/authorities/eu/index_en.htm#h2-1).

   Where the complaint concerns processing of data by the European Commission, it should be addressed to the European Data Protection Supervisor (EDPS) (http://www.edps.europa.eu/EDPSWEB/).

(1) When applications to become a registered exporter or other exchanges of information between registered exporters and competent authorities in beneficiary countries or customs authorities in Member States are made using electronic data-processing techniques, the signature and stamp referred to in boxes 5, 6 and 7 shall be replaced by an electronic authentication.'

COMMISSION REGULATION (EU) 2018/605

of 19 April 2018

amending Annex II to Regulation (EC) No 1107/2009 by setting out scientific criteria for the determination of endocrine disrupting properties

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ([1]), and in particular Article 78(1)(a) and the second paragraph of point 3.6.5 of Annex II thereto,

Whereas:

(1) Scientific criteria for the determination of endocrine disrupting properties of active substances, safeners and synergists, should be developed taking into account the objectives of Regulation (EC) No 1107/2009, which are to ensure a high level of protection of both human and animal health and the environment, in particular ensuring that substances or products placed on the market have no harmful effect on human or animal health or unacceptable effects on the environment, and to improve the functioning of the internal market while improving agricultural production.

(2) In 2002, the World Health Organisation (WHO) through its International Programme for Chemical Safety proposed a definition for endocrine disruptors ([2]) and in 2009 a definition of adverse effects ([3]). Those definitions have by now reached the widest consensus among scientists. The European Food Safety Authority ('the Authority') endorsed those definitions in its Scientific Opinion on endocrine disruptors adopted on 28 February 2013 ([4]) (hereinafter 'the Scientific Opinion of the Authority'). Such is also the view of the Scientific Committee on Consumer Safety ([5]). It is therefore appropriate to base the criteria for the determination of endocrine disrupting properties on those WHO definitions.

(3) In order to implement those criteria, weight of evidence should be applied considering in particular the approach provided for in Regulation (EC) No 1272/2008 of the European Parliament and of the Council ([6]) on the weight of evidence. Previous experience with the Guidance document on standardised test guidelines for evaluating chemicals for endocrine disruption of OECD ([7]) should also be considered. In addition, the implementation of the criteria should be based on all relevant scientific evidence, including studies submitted in accordance with the current regulatory data requirements of Regulation (EC) No 1107/2009. These studies are mostly based on internationally agreed study protocols.

(4) The determination of endocrine disrupting properties with respect to human health should be based on human and/or animal evidence, therefore allowing for the identification of both known and presumed endocrine disrupting substances.

([1]) OJ L 309, 24.11.2009, p. 1.

([2]) WHO/IPCS (World Health Organization/International Programme on Chemical Safety), 2002. Global Assessment of the State-of-the-science of Endocrine Disruptors. WHO/PCS/EDC/02.2, publicly available at http://www.who.int/ipcs/publications/new_issues/endocrine_disruptors/en/

([3]) WHO/IPCS (World Health Organization/International Programme on Chemical Safety), 2009. Principles and Methods for the Risk Assessment of Chemicals in Food. Environmental Health Criteria 240, publicly available at http://www.who.int/foodsafety/publications/chemical-food/en/

([4]) 'Scientific Opinion on the hazard assessment of endocrine disruptors: Scientific criteria for identification of endocrine disruptors and appropriateness of existing test methods for assessing effects mediated by these substances on human health and the environment', *EFSA Journal* 2013;11(3):3132, doi: 10.2903/j.efsa.2013.3132.

([5]) Scientific Committee on Consumer Safety, Memorandum on Endocrine disruptors, 16.12.2014 (SCCS/1544/14).

([6]) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

([7]) OECD Series on Testing and Assessment No 150.

(5) As the specific scientific criteria laid down by this Regulation reflect the current scientific and technical knowledge and are to be applied instead of the criteria currently set out in point 3.6.5 of Annex II to Regulation (EC) No 1107/2009, they should be provided for in that Annex.

(6) In order to take into account the current scientific and technical knowledge, specific scientific criteria should also be specified in order to identify active substances, safeners or synergists having endocrine disrupting properties that may cause adverse effects on non-target organisms. Therefore point 3.8.2 of Annex II to Regulation (EC) No 1107/2009 should be amended to introduce these specific criteria.

(7) The Commission should assess, in light of the objectives of Regulation (EC) No 1107/2009, the experience gained from the application of the scientific criteria for the determination of endocrine disrupting properties introduced by the present Regulation.

(8) The criteria for the determination of endocrine disrupting properties reflect the current state of scientific and technical knowledge and allow identifying active substances having endocrine disrupting properties more accurately. The new criteria should therefore apply as soon as possible, while taking into account the time necessary for Member States and the Authority to prepare for applying those criteria. Therefore, from 20 October 2018, those criteria should apply except where the relevant Committee has voted on a draft Regulation by 20 October 2018. The Commission will consider the implications for each procedure pending under Regulation (EC) No 1107/2009 and, where necessary, take appropriate measures with due respect for the rights of the applicants. This may include a request for additional information from the applicant and/or for additional scientific input from the rapporteur Member State and the Authority.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EC) No 1107/2009 is amended in accordance with the Annex to this Regulation.

Article 2

Points 3.6.5 and 3.8.2 of Annex II to Regulation (EC) No 1107/2009, as amended by this Regulation, shall apply as of 20 October 2018, except for procedures where the Committee has voted on a draft Regulation by 20 October 2018.

Article 3

By 20 October 2025, the Commission shall present to the Committee referred to in Article 79 of Regulation (EC) No 1107/2009 an assessment of the experience gained from the application of the scientific criteria for the determination of endocrine disrupting properties introduced by this Regulation.

Article 4

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

It shall apply from 20 October 2018.

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

Done at Brussels, 19 April 2018.

For the Commission

The President

Jean-Claude JUNCKER

ANNEX

Annex II to Regulation (EC) No 1107/2009 is amended as follows:

(1) in point 3.6.5 the following paragraphs are added after the fourth paragraph:

'From 20 October 2018, an active substance, safener or synergist shall be considered as having endocrine disrupting properties that may cause adverse effect in humans if, based on points (1) to (4) of the sixth paragraph, it is a substance that meets all of the following criteria, unless there is evidence demonstrating that the adverse effects identified are not relevant to humans:

(1) it shows an adverse effect in an intact organism or its progeny, which is a change in the morphology, physiology, growth, development, reproduction or life span of an organism, system or (sub)population that results in an impairment of functional capacity, an impairment of the capacity to compensate for additional stress or an increase in susceptibility to other influences;

(2) it has an endocrine mode of action, i.e. it alters the function(s) of the endocrine system;

(3) the adverse effect is a consequence of the endocrine mode of action.

The identification of an active substance, safener or synergist as having endocrine disrupting properties that may cause adverse effect in humans in accordance with the fifth paragraph shall be based on all of the following points:

(1) all available relevant scientific data (in vivo studies or adequately validated alternative test systems predictive of adverse effects in humans or animals; as well as in vivo, in vitro, or, if applicable, in silico studies informing about endocrine modes of action):

(a) scientific data generated in accordance with internationally agreed study protocols, in particular those listed in the Commission Communications in the framework of setting out the data requirements for active substances and plant protection products, in accordance with this Regulation;

(b) other scientific data selected applying a systematic review methodology, in particular following guidance on literature data which is listed in the Commission Communications in the framework of setting out the data requirements for active substances and plant protection products, in accordance with this Regulation;

(2) an assessment of the available relevant scientific data based on a weight of evidence approach in order to establish whether the criteria set out in the fifth paragraph are fulfilled; in applying the weight of evidence determination, the assessment of the scientific evidence shall, in particular, consider all of the following factors:

(a) both positive and negative results;

(b) the relevance of the study designs, for the assessment of adverse effects and of the endocrine mode of action;

(c) the quality and consistency of the data, considering the pattern and coherence of the results within and between studies of a similar design and across different species;

(d) the route of exposure, toxicokinetic and metabolism studies;

(e) the concept of the limit dose, and international guidelines on maximum recommended doses and for assessing confounding effects of excessive toxicity;

(3) using a weight of evidence approach, the link between the adverse effect(s) and the endocrine mode of action shall be established based on biological plausibility, which shall be determined in the light of current scientific knowledge and under consideration of internationally agreed guidelines;

(4) adverse effects that are non-specific secondary consequences of other toxic effects shall not be considered for the identification of the substance as endocrine disruptor.';

(2) in point 3.8.2 the following paragraphs are added after the sole paragraph:

'From 20 October 2018, an active substance, safener or synergist shall be considered as having endocrine disrupting properties that may cause adverse effects on non-target organisms if, based on points (1) to (4) of the third paragraph, it is a substance that meets all of the following criteria, unless there is evidence demonstrating that the adverse effects identified are not relevant at the (sub)population level for non-target organisms:

(1) it shows an adverse effect in non-target organisms, which is a change in the morphology, physiology, growth, development, reproduction or life span of an organism, system or (sub)population that results in an impairment of functional capacity, an impairment of the capacity to compensate for additional stress or an increase in susceptibility to other influences;

(2) it has an endocrine mode of action, i.e. it alters the function(s) of the endocrine system;

(3) the adverse effect is a consequence of the endocrine mode of action.

The identification of an active substance, safener or synergist as having endocrine disrupting properties that may cause adverse effects on non-target organisms in accordance with the second paragraph shall be based on all of the following points:

(1) all available relevant scientific data (in vivo studies or adequately validated alternative test systems predictive of adverse effects in humans or animals; as well as in vivo, in vitro, or, if applicable, in silico studies informing about endocrine modes of action):

(a) scientific data generated in accordance with internationally agreed study protocols, in particular, those listed in the Commission Communications in the framework of setting out the data requirements for active substances and plant protection products, in accordance with this Regulation;

(b) other scientific data selected applying a systematic review methodology, in particular following guidance on literature data listed in the Commission Communications in the framework of setting out the data requirements for active substances and plant protection products, in accordance with this Regulation;

(2) an assessment of the available relevant scientific data based on a weight of evidence approach in order to establish whether the criteria set out in the second paragraph are fulfilled; in applying the weight of evidence determination, the assessment of the scientific evidence shall consider all of the following factors:

(a) both positive and negative results, discriminating between taxonomic groups (e.g. mammals, birds, fish, amphibians) where relevant;

(b) the relevance of the study design for the assessment of the adverse effects and its relevance at the (sub) population level, and for the assessment of the endocrine mode of action;

(c) the adverse effects on reproduction, growth/development, and other relevant adverse effects which are likely to impact on (sub)populations. Adequate, reliable and representative field or monitoring data and/or results from population models shall as well be considered where available;

(d) the quality and consistency of the data, considering the pattern and coherence of the results within and between studies of a similar design and across different taxonomic groups;

(e) the concept of the limit dose and international guidelines on maximum recommended doses and for assessing confounding effects of excessive toxicity.

(3) using a weight of evidence approach, the link between the adverse effect(s) and the endocrine mode of action shall be established based on biological plausibility, which shall be determined in the light of current scientific knowledge and under consideration of internationally agreed guidelines;

(4) Adverse effects that are non-specific secondary consequences of other toxic effects shall not be considered for the identification of the substance as endocrine disruptor with respect to non-target organisms.'

COMMISSION IMPLEMENTING REGULATION (EU) 2018/606

of 19 April 2018

conferring protection under Article 99 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council on the name 'Dons' (PDO)

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 99 thereof,

Whereas:

(1) In accordance with Article 97(2) and (3) of Regulation (EU) No 1308/2013, the Commission has examined the application to register the name 'Dons' as a Protected Designation of Origin (PDO) sent by Denmark, and has published it in the *Official Journal of the European Union* ([2]).

(2) Objections were received by email from the Italian Ministry of Agriculture, 'Confederazione Nazionale dei Consorzi Volontari per la Tutela delle Denominazioni dei Vini Italiani' (FEDERDOC) and 'L'Alleanza delle Cooperative Italiane-Agroalimentare' in line with Articles 98 of Regulation (EU) No 1308/2013 and 14 of Commission Regulation (EC) No 607/2009 ([3]), on 4 February 2016, 5 February 2016 and 8 February 2016 respectively. The Commission deemed all three objections admissible according to Article 15 of Regulation (EC) No 607/2009.

(3) By letter dated 24 May 2016, the Commission forwarded these objections to the Danish authorities and invited them to file their related observations within two months, in line with Article 16(1) of Regulation (EC) No 607/2009. Denmark sent its observations within the required deadline, on 4 July 2016.

(4) As provided for in Article 16(1) of Regulation (EC) No 607/2009, the Commission communicated the observations from the Danish authorities by letters of 12 January 2017 to the three objectors, and they were given two months for possible comments. In reply, the Commission received another communication from the Italian Ministry of Agriculture on 10 March 2017, reiterating its opposition.

(5) In accordance with Article 16(3) of Regulation (EC) No 607/2009, the Commission should take a decision on the basis of the evidence available to it.

(6) All three objectors claim that certain vine varieties used for the production of 'Dons', namely 'Cabernet Cortis', 'Orion', 'Regent', 'Rondo' and 'Solaris', which they consider to be hybrids obtained from cross-breeding of the species *Vitis vinifera* with other species of the genus *Vitis*, should not be used for the production of a Protected Designation of Origin according to Article 93(1)(a)(iv) of Regulation (EU) No 1308/2013. They also claim that in no case a variety obtained from an interspecies cross could be considered as belonging to the species *Vitis vinifera*. According to the Italian Ministry of Agriculture and FEDERDOC, in any country of the European Union, the examination of the genome makes it possible to determine whether a variety belongs to the species *Vitis vinifera* or a cross with another species of the genus *Vitis*.

(7) The Italian Ministry of Agriculture additionally claims that the reference to human factors is insufficient, as is the causal link between natural and human factors, and information on the quality and characteristics of the product attributable to the geographical environment. Moreover, this objector claims that the assertion that the acidity profile of the product is attributable to the 'selection of relatively hardy varieties' is devoid of any technical and scientific basis, taking into account that the selection of varieties is a long-term process which cannot refer to interspecies hybrid varieties.

([1]) OJ L 347, 20.12.2013, p. 671.
([2]) OJ C 407, 8.12.2015, p. 4.
([3]) Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ L 193, 24.7.2009, p. 60).

(8) Lastly, the Italian Ministry of Agriculture considers that it is superfluous to state the requirements about the labelling of grape varieties and the vintage year, as such requirements are laid down in Articles 61 and 62 of Regulation (EC) No 607/2009.

(9) The Commission has assessed the arguments and evidence provided by the objectors and the applicant, and concluded that the name 'Dons' should be registered as Protected Designation of Origin for the following reasons.

(10) As regards the allegations that the product is not obtained from vine varieties belonging to *Vitis vinifera*, several elements have to be taken into account. Firstly, there is no harmonised classification of a vine variety belonging to *Vitis vinifera* at EU level. In addition, there is no reference list or scientific document available from any official competent body, such as the International Organisation of Vine and Wine (OIV), which currently would allow to undisputedly categorize *Vitis vinifera* species or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*, or to distinguish between them. Against this background, the issue of scientific definition should primarily be addressed in the preliminary national assessment conducted by the Member States in accordance with Article 96 of Regulation (EU) No 1308/2013. Denmark relies on the German classification where all five wine grape varieties in question are classified as belonging to *Vitis vinifera*. Secondly, pursuant to Article 16(3) of Regulation (EC) No 607/2009 regarding the Scrutiny of an objection, the Commission shall take any decision to reject or register the designation of origin on the basis of the evidence available to it. In the case at hand the objectors did not provide any solid scientific evidence or data proving that the product is not obtained from vine varieties belonging to *Vitis vinifera*. Lastly, the Commission notes that several other Member States use the wine grape varieties in question in the production of their wines with Protected Designation of Origin.

(11) For the above reasons, it is not possible to conclude that the product referred to by the name 'Dons' is obtained from vine varieties not belonging to *Vitis vinifera*. The objections made on that ground therefore have to be rejected.

(12) As regards the alleged missing information on the link, the Commission observes that a description of the relevant natural factors present in the geographical environment has been provided, as well as their link to the specific quality and characteristics of the product, expressed notably in a higher lactic acidity of the product distinguishing it from classical sparkling wines. It is, therefore, to conclude that the necessary elements of the link have been included in line with Article 7 of Regulation (EC) No 607/2009. As for the human factors, the acidity profile of the product is deemed attributable to the selection of relatively hardy varieties in line with Article 93(1)(a)(i) of Regulation (EU) No 1308/2013.

(13) As regards the allegations that it is superfluous to state the requirements which are prescribed by the Regulation, since parts of the requirements go beyond the Union law, their inclusion seems appropriate for the reasons of clarity and correct understanding of the requirements by potentially eligible producers.

(14) In the light of the above and in accordance with Article 99 of Regulation (EU) No 1308/2013, the Commission considers that the application meets the conditions laid down in that Regulation and that the name 'Dons' should be protected and entered in the register referred to in Article 104 of that Regulation.

(15) 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

The name 'Dons' (PDO) is hereby protected.

Article 2

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

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

Done at Brussels, 19 April 2018.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2018/607

of 19 April 2018

imposing a definitive anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China as extended to imports of steel ropes and cables consigned from Morocco and the Republic of Korea, whether declared as originating in these countries or not, 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] ('the basic Regulation'), and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

(1) By Regulation (EC) No 1796/1999 [2], the Council imposed an anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China ('PRC'), Hungary, India, Mexico, Poland, South Africa and Ukraine. Those measures will hereinafter be referred to as 'the original measures' and the investigation that led to the measures imposed by Regulation (EC) No 1796/1999 will hereinafter be referred to as 'the original investigation'.

(2) Thereafter, it was found that circumvention of the original measures concerning imports from Ukraine and the PRC took place via respectively Moldova and via Morocco following investigations pursuant to Article 13 of the Council Regulation (EC) No 384/96 [3]. Consequently, by Regulation (EC) No 760/2004 [4], the Council extended the definitive anti-dumping duty imposed on imports of steel ropes and cables originating in the Ukraine to imports of the same products consigned from Moldova. Similarly, the anti-dumping duty imposed on imports of steel ropes and cables originating in the PRC was extended, by Council Regulation (EC) No 1886/2004 [5], to imports of the same products consigned from Morocco.

(3) By Regulation (EC) No 1858/2005 [6], the Council, following an expiry review in accordance with Article 11(2) of Regulation (EC) No 384/96, maintained the original measures imposed on imports of steel ropes and cables originating in the PRC, India, South Africa and Ukraine. The measures applicable to imports originating in Mexico expired on 18 August 2004 [7]. As Hungary and Poland became members of the European Union on 1 May 2004, the measures were terminated on that date.

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[1] OJ L 176, 30.6.2016, p. 21.

[2] Council Regulation (EC) No 1796/1999 of 12 August 1999 imposing a definitive anti-dumping duty, and collecting definitively the provisional duty imposed, on imports of steel ropes and cables originating in the People's Republic of China, Hungary, India, Mexico, Poland, South Africa and Ukraine and terminating the anti-dumping proceeding in respect of imports originating in the Republic of Korea (OJ L 217, 17.8.1999, p. 1).

[3] Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ L 56, 6.3.1996, p. 1.) as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

[4] Council Regulation (EC) No 760/2004 of 22 April 2004 extending the definitive anti-dumping duty imposed by Regulation (EC) No 1796/1999 on imports of steel ropes and cables originating, inter alia, in Ukraine to imports of steel ropes and cables consigned from Moldova, whether declared as originating in Moldova or not (OJ L 120, 24.4.2004, p. 1).

[5] Council Regulation (EC) No 1886/2004 of 25 October 2004 extending the definitive anti-dumping duty imposed by Council Regulation (EC) No 1796/1999 on imports of steel ropes and cables originating, inter alia, in the People's Republic of China to imports of steel ropes and cables consigned from Morocco, whether declared as originating in Morocco or not, and terminating the investigation in respect of imports from one Moroccan exporter (OJ L 328, 30.10.2004, p. 1).

[6] Council Regulation (EC) No 1858/2005 of 8 November 2005 imposing a definitive anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China, India, South Africa and Ukraine following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96 (OJ L 299, 16.11.2005, p. 1).

[7] Notice of the expiry of certain anti-dumping measures (OJ C 203, 11.8.2004, p. 4).

(4) In May 2010, by Implementing Regulation (EU) No 400/2010 ([1]) the Council extended the definitive anti-dumping duty imposed by Regulation (EC) No 1858/2005 on imports of steel ropes and cables, originating in the PRC, to imports of steel ropes and cables, consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not, as a result of an anti-circumvention investigation in accordance with Article 13 of ('the basic Regulation'). Certain Korean exporting producers were granted an exemption from the extended duty as they were not found to circumvent the definitive anti-dumping duties.

(5) The measures applicable to imports originating in India expired on 17 November 2010 ([2]).

(6) In January 2012, by Implementing Regulation (EU) No 102/2012 ([3]), the Council, following an expiry review in accordance with Article 11(2) of Regulation (EC) No 1225/2009 ([4]), maintained the anti-dumping duty regarding the PRC as extended to Morocco and the Republic of Korea and in Ukraine as extended to Moldova. Those measures will hereinafter be referred to as 'the measures in force' and the expiry review investigation, concluded by Implementing Regulation (EU) No 102/2012, will be hereinafter referred to as 'the previous expiry review'.

(7) By the same regulation the Council also terminated the proceeding with regard to South Africa. The measures applicable to imports originating in South Africa expired on 9 February 2012.

1.2. **Request for an expiry review**

(8) Following the publication of a notice of impending expiry ([5]) the Commission received a request for review pursuant to Article 11(2) of the basic Regulation ('request for review').

(9) The request for review was lodged on 7 November 2016 by the Liaison Committee of E.U. Wire Rope Industries ('the applicant') on behalf of producers representing more than 25 % of the total Union production of steel ropes and cables ('SRC'). The request was based on the grounds that the expiry of the measures with regard to the PRC would be likely to result in continuation of dumping and recurrence of injury to the Union industry. The applicant did not provide sufficient evidence that the expiry of measures in force against Ukraine would likely result in a continuation or recurrence of dumping and injury.

1.3. **Initiation**

(10) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 8 February 2017, by a notice published in the *Official Journal of the European Union* ([6]) ('Notice of initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

(11) In the absence of a duly substantiated request for an expiry review concerning imports of SRC originating in Ukraine, the Commission gave notice that the anti-dumping measure with regard to Ukraine would expire. Consequently, the anti-dumping duty imposed on imports of steel ropes and cables originating in Ukraine expired on 10 February 2017 ([7]).

([1]) Council Implementing Regulation (EU) No 400/2010 of 26 April 2010 extending the definitive anti-dumping duty imposed by Regulation (EC) No 1858/2005 on imports of steel ropes and cables originating, inter alia, in the People's Republic of China to imports of steel ropes and cables consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not, and terminating the investigation in respect of imports consigned from Malaysia (OJ L 117, 11.5.2010, p. 1).

([2]) Notice of the expiry of certain anti-dumping measures (OJ C 311, 16.11.2010, p. 16).

([3]) Council Implementing Regulation (EU) No 102/2012 of 27 January 2012, imposing a definitive anti-dumping duty on imports of steel ropes and cables originating in the People's Republic of China and Ukraine as extended to imports of steel ropes and cables consigned from Morocco, Moldova and the Republic of Korea, whether declared as originating in these countries or not, following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 and terminating the expiry review proceeding concerning imports of steel ropes and cables originating in South Africa pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 36, 9.2.2012, p. 1).

([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).

([5]) Notice of the impending expiry of certain anti-dumping measures (OJ C 180, 19.5.2016, p. 2).

([6]) Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of steel ropes and cables originating in the People's Republic of China (OJ C 41, 8.2.2017, p. 5).

([7]) Notice of the expiry of certain anti-dumping measures (OJ C 41, 8.2.2017, p. 4).

1.4. **Review investigation period and period considered**

(12) The investigation of continuation or recurrence of dumping covered the period from 1 January 2016 to 31 December 2016 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2013 to the end of the review investigation period - 31 December 2016 ('the period considered').

1.5. **Interested parties**

(13) In the Notice of initiation, the Commission invited all interested parties to participate in the investigation. In addition, the Commission officially advised the applicant, the other known Union producers, the exporting producers in the PRC, importers/users which were known to be concerned, as well as the authorities of the PRC the initiation of the expiry review.

(14) All interested parties were invited to make their views known, submit information and provide supporting evidence within the time-limits set out in the Notice of initiation. Interested parties were also granted the opportunity to request in writing a hearing by the Commission investigation services and/or the Hearing Officer in trade proceedings.

1.5.1. *Sampling*

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

1.5.1.1. Sampling of exporting producers in the PRC

(16) In view of the apparent large number of exporting producers in the PRC, sampling was envisaged in the Notice of initiation.

(17) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked the 21 known exporting producers in the PRC to provide the information specified in the Notice of initiation. The information requested included production volume and production capacity. In addition, the Commission requested the Mission of the PRC to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(18) Only one group of exporting producers replied that it was willing to cooperate. That group, while covering 100 % of all SRC exports from the PRC to the Union, only accounted for less than 2 % of total SRC Chinese production. Given that only one group of exporting producers was willing to cooperate, it was not necessary to apply sampling.

1.5.1.2. Sampling of Union producers

(19) In the Notice of initiation, the Commission stated that it had provisionally selected a sample of Union producers. Pursuant to Article 17 of the basic Regulation, the sample was selected on the basis of sales volume of the like product. The sample consisted of six Union producers. The sampled Union producers accounted for 50,5 % of the total Union industry's production during the RIP. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample was considered representative for the Union industry.

1.5.1.3. Sampling of unrelated importers

(20) In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers or representatives acting on their behalf, were invited to participate in this investigation. Those parties were requested to make themselves known by providing the Commission with the information on their company(ies) requested in Annex II of the Notice of initiation.

(21) In addition, 44 importers identified in the review request were contacted by the Commission at initiation stage and were invited to explain their activity and to fill in the above mentioned Annex.

(22) Only seven importers came forward, but according to their replies six of them did not import SRC during the RIP. Therefore, no sampling was necessary.

1.5.2. *Questionnaires*

(23) The Commission sent questionnaires to the cooperating group of exporting producers that replied to the sampling form, the six sampled Union producers, one importer, ten users that made themselves known following the initiation of the investigation and 50 known producers in potential market economy third countries (Canada, India, Japan, Malaysia, Mexico, Russia, South Africa, South Korea, Switzerland, Thailand, Turkey, Ukraine and the United States of America ('USA' or 'US')).

(24) The group of exporting producers and five Union producers submitted a questionnaire reply. No importer and none of the users provided a questionnaire reply.

(25) Two market economy third country producers provided a questionnaire reply, one located in Turkey and one in the USA.

1.5.3. *Verification visits*

(26) 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

— Bridon International Ltd, Doncaster, United Kingdom

— Casar Drahtseilwerk Saar GmbH, Kirkel, Germany

— Drumet Liny i Druty sp z o.o., Wloclawek, Poland

— Gustav Wolf GmbH, Guetersloh, Germany

— Redaelli Tecna Spa, Milano, Italy

Exporting producer in the PRC

— Fasten Group Imp. & Exp. Co., Ltd, Jiangyin City, Wuxi, Jiangsu Province

Producer in the market economy third country

— WireCo World Group, Prairie Village, KS, USA.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. **Product under review**

(27) The product subject to this review is steel ropes and cables including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm originating in the PRC ('SRC' or 'product under review'), currently falling within CN codes ex 7312 10 81, ex 7312 10 83, ex 7312 10 85, ex 7312 10 89 and ex 7312 10 98.

2.2. **Like product**

(28) SRC produced in the PRC and exported to the Union, SRC produced and sold on the domestic market of the market economy third country USA, and SRC produced and sold in the Union by the Union producers have the same end uses, basic physical and technical characteristics and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

(29) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.

3.1. **Preliminary remarks**

(30) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.

(31) As indicated in recital 18, only one group of exporting producers accounting for less than 2 % of total production of SRC in the PRC cooperated in this investigation. That group is composed of seven related companies involved in the production and sale of SRC. Since that group covered 100 % of SRC exports from the PRC to the Union during the RIP, the Commission considered that it has sufficient information to assess the export price and the dumping margin during the RIP (section 3.2).

(32) However, the data provided by the sole cooperating group of exporting producers with regard to export sales to other third countries, was found to be deficient: four companies related to the group and involved in the production and sale of SRC had not provided a separate questionnaire reply as required. By failing to reply as required they did not provide any information about their export sales to other third countries. Furthermore, one related company from the group, though it had provided a questionnaire reply, failed to report its export sales to other third countries on a product type basis per transaction.

(33) As a result the Commission informed the sole cooperating group of exporting producers that it intended to apply Article 18 of the basic Regulation with regard to export sales to third countries and that group was given an opportunity to comment in accordance with Article 18(4) of that Regulation.

(34) In its comments, the cooperating group of exporting producers did not deny that it had failed to provide a questionnaire reply for its four related companies. However, it claimed that it was unreasonable to request export sales information to third countries on Product Control Number ('PCN') per transaction basis. That argument cannot be accepted. The requested information was considered necessary because, in order to predict future behaviour of producers in the PRC, should the measures expire, it is important to have precise and full knowledge of their current behaviour when exporting SCR to other third countries. When, as in this case, a party does not make its best effort to provide the full set of data requested but provides only part of it, which in addition is not sufficiently detailed and cannot be verified, such partial information cannot be regarded as sufficiently precise and complete to enable the Commission to properly assess, in full knowledge, the behaviour of the Chinese producers when exporting SRC to other third countries.

(35) The findings in section 3.3.2 were thus based on facts available. For that purpose, the information provided by the sole cooperating group of exporting producers except for sales to third countries, the request for the expiry review, the submission made by the applicants, on information from the Chinese Export Statistics [1] ('PRC database'), on information from the World Bank and on other publicly available information in order to establish a full picture of anti-dumping measures in place in other important third countries markets for SRC as explained in recital 68 were used.

3.2. **Dumping**

(36) Dumping during the RIP for exports from the PRC was established on the information provided by the sole cooperating group of exporting producers that represented the totality of the exports of SRC from the PRC to the Union during the RIP (see recital 18).

Market economy third country

(37) None of the exporting producers from the PRC was granted market economy treatment in the original investigation. According to Article 2(7)(a) and (b) of the basic Regulation, normal value for all exporting producers is therefore to be determined on the basis of the price or constructed value in a market economy third country. For that purpose, a market economy third country had to be selected.

(38) In the Notice of initiation the Commission envisaged using Turkey as a market economy third country. The Notice of initiation also indicated that there may be production of the like product in other market economy third countries such as Thailand, Vietnam and Malaysia. The Commission invited all interested parties to comment on the choice of a market economy third country for the purpose of establishing normal value in respect of the PRC. No comments were received in the timeframe specified in the Notice of initiation.

[1] http://info.hktdc.com/chinastat/gcb/index2.htm (last accessed 28.9.2017).

(39) As indicated in the Notice of initiation the Commission examined whether there was production and sales of the like product in those market economy third countries for which there were indications that production is taking place. In addition, based on information of the request for review and statistical information available (Eurostat), the Commission identified other potential market economy third countries: Canada, India, Japan, South Korea, Malaysia, Mexico, Russia, South Africa, Switzerland, Thailand, Ukraine and the USA. The Commission identified 50 potential producers in those countries which were contacted and invited to provide the necessary information.

(40) However, only one producer in Turkey and one in the USA came forward and provided the information requested.

Choice of the market economy third country

(41) In total, there were 15 potential producers of the like product in the USA. The US market was also found to be an open market with significant import and export volumes of SRC during the RIP. There were no import duties or anti-dumping/countervailing duties on imports in force on imports of SRC in the USA. The production volume of the cooperating producer in the US was substantial in comparison to the estimated total production in the USA (accounting for approximately 15 % to 25 % of the total estimated US domestic production).

(42) It was therefore considered that the USA was an open and large market with many domestic producers and imports competing with each other. The degree of competition was found to be higher in the USA than in Turkey. In addition, the data provided by the producer in Turkey was largely deficient and essential elements for the determination of normal value were missing whereas the quality of the reply of the producer in the USA was sufficiently complete to establish a reliable normal value on this basis. Therefore, the Commission selected the USA as an appropriate market economy third country.

(43) Interested parties were given the opportunity to comment on the appropriateness of the selection of the USA as a market economy third country. No comments were received within the deadline.

(44) On that basis the Commission decided to select the USA as market economy third country for this review.

Normal value

(45) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the total volume of sales of the market economy third country producer of the like product in the domestic market was representative during the review investigation period. The sales of the cooperating US producer of the like product were found to be made in representative quantities on the domestic market compared to the product under review exported to the Union by the Chinese exporting producer.

(46) The Commission subsequently examined whether those sales could be considered as made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable sales to independent customers. The sales transactions were considered profitable where the unit price was equal or above the cost of production of the US producer during the investigation period.

(47) The Commission identified those product types for which more than 80 % by volume of sales on the domestic market were above cost and the weighted average sales price of that type was equal to or above the unit cost of production. In those cases, normal value, by product type, was calculated as the weighted average of the actual domestic prices of all sales of the type in question, irrespectively of whether those sales were profitable or not. That was the case for about 50 % of the product types exported to the Union.

(48) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, normal value was based on the actual domestic price, which was calculated as a weighted average price of only the profitable domestic sales of that type made during the investigation period. That was the case for about 50 % of the product types exported to the EU.

(49) Therefore, for all product types, normal value was established on the domestic sales prices.

(50) Normal value was established on the basis of the prices for sales of SRC of the cooperating producer in the USA in accordance with Article 2(7)(a) and (b) as well as Articles 2(1) to 2(6) of the basic Regulation.

Export price

(51) The export price was based on the information provided by the cooperating group of exporting producers from the PRC in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable to the first independent customer in the Union, which was an unrelated importer.

Comparison

(52) In the absence of matching at the level of the full PCN between the product types exported by the group of cooperating exporting producers and domestic sales in the market economy third country, the normal value was determined on the basis of the domestic price in that market economy third country of the most closely resembling product type. In order to reflect the differences between product types, the normal value determination took into account the characteristics of the product type as defined by the PCN: product category, wire characteristics, type of rope, external diameter and tensile strength. Adjustments were made in the range of 5 % to 15 % so as to take into consideration differences between the product types in accordance with Article 2(10)(a) of the basic Regulation.

(53) The exports from the PRC are subject to a partly refundable export value added tax (VAT) whereas in the USA all taxes pertaining to domestic sales are refunded. Therefore, the Commission made an adjustment under Article 2(10)(b) of the basic Regulation for the difference in VAT between export sales from the PRC to the Union (where 17 % VAT is charged on export and 5 % of it is then refunded) to ensure a fair comparison and in line with settled case law [1].

(54) Furthermore, adjustments were also made to the normal value for differences in packaging costs (less than 2 %) and domestic freight (in a range of 2 % to 10 %) under Article 2(10)(e) and (f) of the basic Regulation. Adjustments were also made to the export price for handling and loading (less than 1 %), domestic freight in the PRC (in a range of 1 % to 5 %, ocean freight (in a range of 1 % to 5 %) and insurance (less than 1 %), costs under Article 2(10)(e) of the basic Regulation. Additionally credit costs (less than 1 %) and bank charges (less than 1 %) were also deducted from the export price according to Article 2(10)(g) and (k) of the basic Regulation.

(55) Finally, export sales to the Union were made via related sales companies in China. The Commission did not examine whether for those sales an adjustment would be warranted under Article 2(10)(i) of the basic Regulation. The reason being that the purpose of an expiry review is not to establish precise dumping margins, but to establish whether dumping continued during the review investigation period.

Dumping margin

(56) The Commission compared the normal value and the export prices, as calculated in recitals 45 to 51 in order to ensure price comparability, for each product type. As provided by Article 2(11) and (12) of the basic Regulation, the weighted average normal value of each product type of the like product in the market economy third country was compared with the weighted average export price of the corresponding product type of the product under review.

(57) On that basis, the weighted average dumping margin expressed as a percentage of the CIF (Cost, Insurance, Freight) Union frontier price, duty unpaid, was 16,7 %.

3.3. **Development of imports should measures be repealed**

(58) Further to the finding of dumping during the review investigation period, the Commission analysed whether there was a likelihood of continuation of dumping should measures be repealed. The following elements were analysed: production, production capacity and spare capacity in the PRC, Chinese export behaviour in other third countries, circumvention practices and the attractiveness of the Union market.

(59) The sole cooperating group of exporting producers represented less than 3 % of the total production capacity and less than 2 % of the total production of SRC in the PRC. Considering that no other producers of SRC in the PRC cooperated, the examination of the likelihood of continuation or recurrence of dumping in order to assess the development of imports should measures be repealed was based on the information available to the

[1] Court of Justice in Case C-15/12 P, Judgment of 19 September 2013, Dashiqiao Sanqiang Refractory Materials v Council Dashiqiao, EU:C:2013:572, paragraphs 34-35.

Commission, that is information provided by the sole cooperating group of exporting producers, the expiry review request, the information from the PRC database, the information from the World Bank and other publicly available information as explained in recital 68 in order to establish a full picture of anti-dumping measures in place in other important markets for SRC.

3.3.1. *Production, production capacity and spare capacity in the PRC*

(60) In the absence of any other information on the file, the Commission based its findings on the expiry review request which contained a study analysing the 'Supply and Demand-side Developments in the Chinese Steel Wire Rope Industry 2012-2016 as well as in the Near Future' ('the study'). Based on that information, the production capacity for SRC in the PRC was estimated at 5,8 million tonnes per year, actual production was estimated at around 4,0 million tonnes per year and, as a result, the spare capacity in the PRC was estimated at around 1,8 million tonnes in 2016, which largely exceeds the total Union consumption of SRC during the RIP as shown in recital 75 by more than 10 times.

(61) The study indicated that the domestic consumption in the PRC amounted to around 3,8 million tonnes per year. The investigation did not bring into light any elements that could indicate any significant increase of domestic demand in China in the near future. The same is true for Chinese exports to other third countries as there is no information available that would indicate any significant increase of demand for SRC worldwide.

(62) Regarding the expiry review request and more specifically the study, it should be noted that the information contained therein was not contested by any interested party. Furthermore, as indicated in recitals 17 and 18, it is also recalled that most of the Chinese exporting producers of SRC did not provide the necessary information as requested and that the sole cooperating group of exporting producers accounting for less than 3 % of the total Chinese production capacity cooperated and provided relevant information as requested.

(63) Therefore, in the absence of any other information, it is considered that neither domestic demand, nor worldwide demand of SRC will be able to absorb the significant spare capacity available in China.

3.3.2. *Export behaviour to other third countries*

(64) As explained in recitals 32 to 35, the information submitted by the sole cooperating group of exporting producers could not be used to properly assess the export behaviour of Chinese exporting producers to other third countries. Therefore, the Commission had to rely on facts available in accordance with Article 18 of the basic Regulation to assess that behaviour. To do so, the Commission used the PRC database as it was done in the previous expiry review ([1]).

(65) It should however be noted that, the PRC database covers a broader product scope than the product under review as it also includes stranded wire, ropes and cables of stainless steel and steel ropes and cables with a maximum cross-sectional dimension not exceeding 3 mm. Therefore, no meaningful analysis of quantities exported to other markets could be made on the basis of the information found in the PRC database. Nevertheless, the PRC database could be used for the price analysis. The price analysis is based on reasonable estimations given the similar characteristics of the other products possibly included in the analysis.

(66) On that basis, the Commission found that when comparing Chinese export prices to their five main export markets other than the Union (which are India, South Korea, Thailand, USA and Vietnam), to the normal value established in the market economy third country as described in recitals 45 to 50 the dumping margins ranged from 129 % to 314 % during the RIP. Chinese SRC exports to those five other markets account for an estimated 40 % of total Chinese SRC exports worldwide. On the same basis, the dumping margin for sales to the Union amounted to 97 %.

(67) Therefore, SRC exports to other third countries from the PRC were likely dumped at even higher levels than the export sales to the Union during the RIP. In the absence of any other information, the export price level to other third countries can be seen as an indicator of the likely price level for export sales to the Union should measures be repealed. Given the low price levels to third country markets, it was also concluded that there is a considerable margin to reduce export prices to the Union, potentially resulting in increased dumping.

([1]) For reference see recital 51 of Implementing Regulation (EU) No 102/2012.

(68) Furthermore, according to publicly available data ([1]), anti-dumping measures on imports of SRC originating in the PRC are also in force in Turkey ([2]), Mexico ([3]) and Brazil ([4]). Colombia recently initiated an anti-dumping investigation on imports of SRC originating in China ([5]) and in December 2017 provisional anti-dumping measures of 15 % were imposed. That clearly indicates that SRC from Chinese exporting producers have also been exported to other markets at dumped prices. It also indicates that Chinese SRC exports to those markets are or will be restricted and that Chinese SRC exporting producers have to find alternative markets for their spare capacity.

3.3.3. *Attractiveness of the Union market*

(69) On the basis of the available information, as explained in recital 66, it was found that exporting producers from the PRC can achieve higher prices in the Union market than in other third countries. According to the PRC database, in the RIP the average FOB (free on board) export price to the Union was EUR 1 688/tonne while it amounted on average to only EUR 1 191/tonne when destined to the five main third country markets. Therefore, Chinese export prices to third countries were around 30 % lower than export prices to the Union (not taking into account anti-dumping duties paid in the Union market). That indicates that the Union market is an attractive market given that Chinese exporting producers can generate higher profits on sales to the Union than on their sales to other export markets.

3.3.4. *Conclusion*

(70) In conclusion, the dumping margin established in the RIP, the significant spare capacity available in the PRC, the established attractiveness of the Union market and the export behaviour in other third countries, indicate that a repeal of the measures would likely result in a continuation of dumping, and that dumped exports will enter the Union market in significant quantities. It is therefore considered that there is a likelihood of continuation of dumping should the current anti-dumping measures be allowed to lapse.

4. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF INJURY

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

(71) Within the Union, SRC were manufactured by over 22 producers/producer groups during the RIP. They constitute the 'Union industry' within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

(72) Total Union production during the RIP was established at 168 701 tonnes on the basis of the review request, additional data provided by the applicant and the questionnaire replies of the sampled Union producers.

(73) As indicated in recital 19, a sample consisting of six producers/producer groups was selected. The Commission received and verified questionnaire replies from five Union producers. The five producers represented 43 % of the total Union production during the RIP. The sample was therefore regarded as sufficiently representative for the Union industry.

4.2. **Union consumption**

(74) Union consumption was established on the basis of sales volume of the Union industry in the Union market and the volume of imports from third countries into the Union based on the data reported to the Commission by the Member States in accordance with Article 14(6) of the basic Regulation ('Article 14(6) database') and verified data from the cooperating Chinese exporting producer group.

([1]) Bown, Chad P. (2016) 'Global Antidumping Database,' The World Bank, June, source: http://econ.worldbank.org/ttbd/gad/
([2]) The level of the duty amounts to 1 000 USD/tonne.
([3]) The level of the duty amounts to 2 580 USD/tonne.
([4]) The level of the duty ranges between 124,33 USD/tonne and 627 USD/tonne.
([5]) http://www.mincit.gov.co/loader.php?lServicio=Documentos&lFuncion=verPdf&id=82791&name=Resolucion_220_del_15_de_diciembre_de_2017__Preliminar_cables_y_torones_....pdf&prefijo=file (last accessed on 2.2.2018).

(75) Table 1 sets out how Union consumption developed during the period considered.

Table 1

Union consumption

	2013	2014	2015	RIP
Total consumption (in tonnes)	175 589	175 675	170 454	164 446
Index (2013 = 100)	*100*	*100*	*97*	*94*

Source: Article 14(6) database, verified data.

(76) Union consumption remained stable from 2013 to 2014 and decreased by 6 % from 2014 to the RIP.

4.3. **Imports from the PRC**

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

(77) The Commission established the volume of imports from the PRC on the basis of the verified questionnaire reply of the cooperating group of exporting producers and the data from Article 14(6) database during the period considered.

(78) On that basis, imports into the Union from the PRC and its market share developed as follows:

Table 2

Import volume and market share

	2013	2014	2015	RIP
Imports (in tonnes)	2 697	1 780	3 207	2 005
Index (2013 = 100)	*100*	*66*	*119*	*74*
Market share (%)	1,5	1,0	1,9	1,2
Index (2013 = 100)	*100*	*66*	*122*	*79*

Source: Article 14(6) database, verified data.

(79) During the period considered, the import volume of SRC from the PRC fluctuated from year to year. A drop by 34 % between the years 2013-2014, was followed by an increase of 80 % during the years 2014-2015 ([1]). Finally in the RIP, the volume of imports decreased from 2 697 in 2013 to 2 005 tonnes. Overall, the import volume decreased by 26 % during the period considered.

(80) The market share of imports from the PRC followed a similar trend. Overall, it decreased from 1,5 % to 1,2 % during the period considered.

4.3.2. *Prices of the imports from the PRC*

(81) The Commission established the prices of imports on the basis of the verified questionnaire reply of the cooperating Chinese group of exporting producers and the data from Article 14(6) database during the period considered. The average price of imports into the Union from the PRC developed as follows:

Table 3

Average price of imports from the PRC

	2013	2014	2015	RIP
Average price without duty (EUR/ton)	1 712	1 360	1 669	2 474
Index (2013 = 100)	*100*	*79*	*98*	*145*

Source: Article 14(6) database, verified data.

([1]) Import volume percentage increase, Table 2: (119 – 66)/66 = 0,80 * 100 = 80 %

(82) During the period considered, the average price of the product imported from the PRC fluctuated from year to year. Initially, the prices decreased by 21 % in 2014. In 2015 the prices increased, reaching almost the level of 2013 and increased further in the RIP. Overall, the prices increased by 45 % during the period considered.

4.4. **Price undercutting**

(83) The Commission determined the price undercutting during the investigation period by comparing:

(a) the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and

(b) the corresponding weighted average prices per product type of the imports from the cooperating Chinese group of exporting producers to the first independent customer on the Union market, established on a Cost, Insurance, Freight (CIF) basis. None of the eight product types exported by the sole cooperating group of exporting producers to the Union were sold by the Union industry. In order to have matching, product types were simplified by suppressing the tensile strength ([1]) and by averaging the price component of differences in diameter ([2]). By applying this method, a 100 % match was established.

(84) The result of the comparison was expressed as a percentage of the Union industry's average weighted price during the RIP. The lack of undercutting indicates the effectiveness of the measures. Should the measures be allowed to lapse and the Chinese SRC exporting producers maintain their export prices at a similar level, the undercutting margin could be calculated by deducting the anti-dumping duty from the import price. The thus established undercutting margin would amount to 36,3 %. This is considered to be a reasonable indication of possible future export price levels to the Union should measures be allowed to lapse.

4.5. **Imports from third countries other than the PRC**

(85) The imports from third countries other than the PRC mainly come from the Republic of Korea, Turkey, Thailand, Russia and Malaysia.

(86) The volume of imports into the Union of those imports is shown in Table 4 as well as their market share and the average prices:

Table 4

Imports from third countries other than the PRC

	2013	2014	2015	RIP
Imports (in tonnes)	63 381	65 336	63 747	63 798
Index (2013 = 100)	*100*	*103*	*101*	*101*
Market share (%)	36,1	37,2	37,4	38,8
Average price (EUR/tonne)	1 712	1 588	1 624	1 488
Index (2013 = 100)	*100*	*93*	*95*	*87*

Source: Article 14(6) database, verified data.

(87) Overall, the import volume from the other third countries remained fairly stable over the period considered with a slight increase of 1 %.

(88) Since the total Union consumption decreased over the period considered, this increase translated in an increase of their market share from 36,1 % to 38,8 % during this period.

([1]) The tensile strength of a cable indicates its capacity to resist at a given tension.

([2]) (i) An average of the two PCNs with the closest possible diameter (1 mm below and 1 mm above) and applied to the Union industry's data, provided all the other digits of the PCN structure were the same (applies for 6th and 7th PCN); (ii) the unit price of the closest diameter and applying a ratio representing the diameter's price difference when comparing all the Union industry's sales of the same diameters and applied to the Union industry's data.

(89) During the period considered, the average price of the product imported from third countries other than the PRC fluctuated from year to year. Initially, the prices decreased by 7 % in 2014. In 2015 the prices increased by 2 %, to decrease again by 8 % during the RIP. Overall, the prices decreased by 13 % during the period considered.

4.5.1. *Imports from countries to which the measures were extended*

Republic of Korea

(90) The Republic of Korea has the second largest market share in the Union market after the Union industry during the period considered.

(91) As mentioned in recital 4, circumvention of the original measures on imports of SRC from the PRC took place via the Republic of Korea. Consequently, in 2010, the anti-dumping duty imposed on imports originating in the PRC was extended to imports of the same product consigned from the Republic of Korea, with the exception of those produced by 15 genuine Korean exporting producers.

(92) Practically all imports of SRC from the Republic of Korea into the Union during the RIP were coming from the exporting producers exempted from the extended anti-dumping duty, namely 99,98 % of all Korean imports.

(93) Table 5 sets out how the volume, market share and average prices of Korean imports into the Union developed during the period considered:

Table 5

Import volume, market share and average price from Korea

	2013	2014	2015	RIP
Imports (in tonnes)	36 800	34 157	30 274	32 928
Index (2013 = 100)	*100*	*93*	*82*	*89*
Market share (%)	21,0	19,4	17,8	20,0
Index (2013 = 100)	*100*	*93*	*85*	*96*
Average price (EUR/tonne)	1 559	1 621	1 646	1 506
Index (2013 = 100)	*100*	*104*	*106*	*97*

Source: Article 14(6) database.

(94) Import volume from the Republic of Korea decreased over the period considered by 11 %, at a slightly higher rate than the downward trend of consumption.

(95) Since the decrease rate of imports volume was higher than the decrease rate of the consumption, the market share only slightly decreased from 21,0 % to 20,0 % during the period considered.

(96) The average price of the imports increased from 2013 to 2015 by 6 % and decreased in the RIP by 9 %, representing an overall a decrease of 3 % during the period considered. The average price (CIF, no duty included) was 48 % lower than the average price (EXW) of the Union industry.

Morocco

(97) Imports originating in or consigned from Morocco were found to be close to zero during the period considered. Hence, no further analysis was deemed necessary.

4.5.2. *Imports from third countries which were subject to anti-dumping duties during the period considered*

Ukraine and Moldova

(98) During the period considered, an anti-dumping duty of 51,8 %, was still in force on imports of SRC originating in Ukraine as extended to imports of the same product consigned from Moldova, whether declared as originating in Moldova or not.

(99) Those measures expired on 10 February 2017, as explained in recital 11.

(100) Imports originating in or consigned from the Ukraine and Moldova were found to be close to zero during the period considered. Hence, no further analysis was deemed necessary for the period considered.

4.5.3. *Imports from other third countries*

(101) Imports from the remaining third countries were mainly from Turkey, Thailand, Russia and Malaysia. Table 6 sets out how those imports developed:

Table 6

Imports from other third countries

	2013	2014	2015	RIP
Turkey				
Imports (in tonnes)	6 814	8 608	7 508	7 028
Index (2013 = 100)	*100*	*126*	*110*	*103*
Market share (%)	3,9	4,9	4,4	4,3
Average price (EUR/tonne)	1 384	1 322	1 328	1 255
Index (2013 = 100)	*100*	*95*	*96*	*91*
Thailand				
Imports (in tonnes)	5 206	6 514	6 268	6 122
Index (2013 = 100)	*100*	*125*	*120*	*118*
Market share (%)	3,0	3,7	3,7	3,7
Average price (EUR/tonne)	1 445	1 391	1 656	1 468
Index (2013 = 100)	*100*	*96*	*115*	*102*
Russia				
Imports (in tonnes)	1 639	3 541	5 063	4 838
Index (2013 = 100)	*100*	*216*	*309*	*295*
Market share (%)	0,9	2,0	3,0	2,9
Average price (EUR/tonne)	1 341	1 150	1 135	1 057
Index (2013 = 100)	*100*	*86*	*85*	*79*
Malaysia				
Imports (in tonnes)	4 525	4 377	5 932	4 530
Index (2013 = 100)	*100*	*97*	*131*	*100*
Market share (%)	2,6	2,5	3,5	2,8
Average price (EUR/tonne)	1 552	1 416	1 437	1 343
Index (2013 = 100)	*100*	*91*	*93*	*87*

	2013	2014	2015	RIP
Other countries				
Imports (in tonnes)	8 257	8 061	8 701	8 294
Index (2013 = 100)	*100*	*98*	*105*	*100*
Market share (%)	4,7	4,6	5,1	5,0
Average price (EUR/tonne)	2 951	2 180	2 196	1 967
Index (2013 = 100)	*100*	*96*	*108*	*100*
Total				
Imports (in tonnes)	26 441	31 102	33 472	30 812
Index (2013 = 100)	*100*	*118*	*127*	*117*
Market share (%)	15	18	20	19
Average price (EUR/tonne)	1 912	1 552	1 605	1 471
Index (2013 = 100)	*100*	*81*	*84*	*77*

Source: 14.6 database.

(102) Total imports from other third countries increased by 27 % during the period 2013-2015. In the RIP, imports decreased by 10 %. Overall imports increased by 17 % during the period considered. Since the consumption decreased during the period considered as described in recital 76 the market share of the other third countries increased from 15 % to 19 % over the same period.

(103) Imports from Turkey fluctuated during the period considered but in the RIP they reached a similar level as in 2013 (at the beginning of the period considered), namely 7 028 tonnes. Overall, their market share remained fairly stable with only a slight increase of 0,4 percentage points over the period considered, namely from 3,9 % in 2013 to 4,3 % during the RIP. The average price decreased by 9 %.

(104) Imports from Thailand increased by 25 % from 2013 to 2014, but continuously decreased afterwards and in the RIP reached 6 122 tonnes, up from 5 206 in 2013. Overall, imports increased by 18 % in the period considered. The market share increased also in 2014 and remained stable until the RIP. The average import price fluctuated during the period 2014-2015 (– 4 %, + 15 %) and reached in the RIP a level of 2 % above the level in 2013.

(105) Imports from Russia significantly increased during the period considered, but remained at relatively low levels throughout the period considered. The market share also increased from 0,9 % to 2,9 %. The average price decreased by 21 % over the period considered.

(106) Imports from Malaysia fluctuated since the beginning of the period considered but in the RIP they reached almost the same level as in 2013, namely 4 530 tonnes. During the period considered, despite fluctuation the market share of Malaysian imports of SRC increased only slightly overall, namely by 0,2 percentage points. The average import price decreased by 13 % during the period considered.

(107) During the RIP, prices of SRC imports from Turkey, Thailand, Russia and Malaysia were on average lower than the Union industry's average price (by 49 %-63 %). They were also lower than import prices from the PRC (by 41 %-57 %).

4.6. **Economic situation of the Union industry**

4.6.1. *General remarks*

(108) In accordance with Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indices having a bearing on the state of the Union industry during the period considered.

(109) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission assessed macroeconomic indicators relating to the whole Union industry on the basis of data obtained from the applicant, cross-checked with the information provided by a number of Union producers at pre-initiation stage and the verified questionnaire replies of the sampled Union producers. The Commission assessed the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers, which were verified. Both sets of data were found representative of the economic situation of the Union industry.

(110) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the dumping margin.

(111) The microeconomic indicators are: average unit prices, average unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.6.2. *Macroeconomic indicators*

4.6.2.1. Production, production capacity and capacity utilisation

(112) Table 7 sets out the total Union production, production capacity and capacity utilisation developed over the period considered:

Table 7

Production, production capacity and capacity utilisation

	2013	2014	2015	RIP
Production (tonnes)	206 053	203 763	193 757	168 701
Index (2013 = 100)	*100*	*99*	*94*	*82*
Production capacity (tonnes)	290 092	299 773	301 160	305 550
Index (2013 = 100)	*100*	*103*	*104*	*105*
Capacity utilisation (%)	71	68	64	55
Index (2013 = 100)	*100*	*96*	*91*	*78*

Source: Applicant, information at pre-initiation stage and verified questionnaire replies.

(113) The total production volume remained relatively stable during the period 2013-2014 and decreased by 5 % in 2015. In the RIP though, the production volume decreased further by 12 %. Overall, production volume decreased by 18 % during the period considered.

(114) The production capacity slightly increased during the period considered and overall only by 5 %.

(115) Consequently, the capacity utilisation rate decreased from 71 % in 2013, to 55 % in the RIP. Overall, the capacity utilisation rate decreased by 22 % during the period considered, following the decrease of production volume.

4.6.2.2. Sales volume and market share

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

Table 8

Sales volume and market share

	2013	2014	2015	RIP
Sales volume (tonnes)	109 511	108 559	103 499	98 643
Index (2013 = 100)	*100*	*99*	*95*	*90*

	2013	2014	2015	RIP
Market share (%)	62,4	61,8	60,7	60,0
Index (2013 = 100)	*100*	*99*	*97*	*96*

Source: Applicant, information at pre-initiation stage and verified questionnaire replies.

(117) Sales volume followed the trend of the production volume. It remained relatively stable during the period 2013-2014 and decreased by 5 % in 2015. In the RIP, the production volume decreased further by 5 %. Overall, sales volume decreased by 10 % during the period considered.

(118) The market share of the Union industry decreased by 2,4 percentage points from 62,4 % to 60,0 % during the period considered.

4.6.2.3. Growth

(119) During the period considered, the Union consumption decreased by 6 %. Sales volume of the Union industry decreased by an even higher degree, namely 10 %. As a consequence, the Union industry experienced a loss of 2,4 percentage points in market share. The drop in sales volume was also reflected in the capacity utilisation which decreased by 22 %.

4.6.2.4. Employment and productivity

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

Table 9

Employment and productivity

	2013	2014	2015	RIP
Number of employees	3 329	3 309	3 238	3 026
Index (2013 = 100)	*100*	*99*	*97*	*91*
Productivity (tonnes/employee)	62	62	60	56
Index (2013 = 100)	*100*	*99*	*97*	*90*

Source: Applicant, information at pre-initiation stage and verified questionnaire replies.

(121) The number of employees in the Union industry decreased over the period considered by 9 %, the main reduction took place during the RIP. It followed the decrease of production and sales volume as described in recitals 113 and 117.

(122) As a result of a higher rate of decrease in production as compared to the decrease in number of employees, the productivity decreased over the period considered by 10 %.

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

(123) The investigation established in recital 57 that imports of the product under review from the PRC continued to be dumped on the Union market at a dumping rate of 16,7 %. The volume of the imports was low due to the effectiveness of the anti-dumping measures in force. Nevertheless, the Chinese remained present on the Union market keeping a market share of 1,2 % during the RIP (see Table 2).

(124) In the previous expiry review the Union industry showed signs of recovery from the effects of past dumping. During the period considered, the recovery process slowed down, with the main injury indicators showing a decreasing trend. Furthermore, a lower demand for bulk commodities and reductions in the oil price led to a reduced activity in the sectors of mining and oil & gas. Subsequently, a negative impact in the demand for SRC followed, causing consumption to decline by 6 % during the period considered (see Table 1).

(125) Due to the gradual decline of Union prices during the period considered, the Union industry could not continue to recover from the effects of past dumping.

4.6.3. *Microeconomic indicators*

4.6.3.1. Prices and factors affecting prices

(126) The average sales prices of the Union industry to unrelated customers in the Union developed over the period considered as follows:

Table 10

Average sales prices and unit costs

	2013	2014	2015	RIP
Average unit selling price in the Union (EUR/tonne)	3 297	3 133	2 950	2 887
Index (2013 = 100)	*100*	*95*	*89*	*88*
Unit cost of production in the Union (EUR/tonne)	2 774	2 866	3 072	3 138
Index (2013 = 100)	*100*	*103*	*111*	*113*

Source: Verified questionnaire replies.

(127) The Union industry's average unit sales price to unrelated customers in the Union decreased by 12 % over the period considered.

(128) At the same time the average unit cost of production increased by 13 % over the period considered. That increase in unit cost was mainly caused by the decrease in the production and sales volume (18 % and 10 %, respectively over the period considered recitals 113 (see Table 7) and 117 (see Table 8)). It should be noted that this increase in unit cost occurred despite the decrease in the total production cost during the period considered. Thus, although the Union industry managed to reduce the total production cost, they were not able to reduce the cost per unit due to the extensive decrease in the production and sales volume.

4.6.3.2. Labour costs

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

Table 11

Average labour costs per employee

	2013	2014	2015	RIP
Average labour costs per employee	48 708	48 277	51 586	50 021
Index (2013 = 100)	*100*	*99*	*106*	*103*

Source: Verified questionnaire replies.

(130) Overall, the average labour costs increased slightly by 3 % during the period considered after small fluctuations during the period considered.

4.6.3.3. Inventories

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

Table 12

Inventories

	2013	2014	2015	RIP
Closing stocks (tonnes)	15 191	15 889	15 260	14 796
Index (2013 = 100)	*100*	*105*	*100*	*97*
Closing stocks as a percentage of production (%)	16,7	17,4	17,4	23,0
Index (2013 = 100)	*100*	*104*	*105*	*138*

Source: Verified questionnaire replies.

(132) The level of inventories decreased slightly by 3 % over the period considered. Since the Union industry has to maintain a minimum stock level of the most common types of SRC for immediate coverage of demand, inventories could not decrease further and as a result their value as a percentage of the production increased by 38 %.

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

(133) 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

	2013	2014	2015	RIP
Profitability of total sales in the Union to unrelated customers (%)	7,5	6,1	2,6	– 1,6
Index (2013 = 100)	*100*	*81*	*34*	*– 21*
Cash flow ('000 EUR)	42 881	36 692	33 631	8 885
Index (2013 = 100)	*100*	*86*	*78*	*21*
Investments ('000 EUR)	12 014	8 843	9 003	5 950
Index (2013 = 100)	*100*	*74*	*75*	*50*
Return on investments (%)	33,3	20,8	8,6	– 5,2
Index (2013 = 100)	*100*	*62*	*26*	*– 16*

Source: Verified questionnaire replies.

(134) Profitability of the Union industry decreased over the period considered starting with 7,5 % profit in 2013 and ending in the RIP with a loss of 1,6 %.

(135) The cash flow, decreased dramatically during the period considered by 79 %. It is an additional indicator of Union industry's poor performance on the operating activities and the liquidity shortage they had to face.

(136) Subsequently the investments decreased to 50 % during the period considered. Due to the decreasing profit margins and the high pressure on prices, investments were mostly limited to those prompted by environmental or security requirements. At the same time, there were only few investments on operation and technology of production in order to raise efficiency and productivity during the investigation period.

(137) The return on investments measures the gain or loss generated on an investment relative to the amount of money invested. During the period considered it decreased from 33,3 % into a negative – 5,2 %.

4.6.4. *Conclusion on injury*

(138) Due to the anti-dumping duties in place, the Union industry continued to recover from the effect of past injurious dumping for the first two years 2013-2014 of the period considered and managed to retain a profit margin exceeding the target profit of 5 %.

(139) Nevertheless, lower demand for bulk commodities and reductions in the oil price led to a reduced activity in the sectors of mining and oil & gas. Consequently, the demand for SRC was reduced during the period considered. The Union industry was directly affected by this contraction in demand which translated into a decrease in its production and sales volume as well as its market share. At the same time the share of the low priced SRC increased and led to a decline of the Union price and further impairment of its financial performance. Therefore, almost all the injury indicators have deteriorated. On that basis, it is concluded that the Union industry has suffered material injury.

(140) SRC imports from the PRC had a limited negative impact on the Union industry's injurious situation. Due to the measures in force, their market share was low throughout the period considered. Nevertheless, Chinese SRC imports remained present in the Union market.

(141) At the same time imports from other third countries had an overall market share of 38,8 % with a slightly increasing trend during the period considered (see Table 4). Average import prices from other third countries had a decreasing trend with levels largely below the level of the Union industry sales price on the Union market. Those imports therefore affected the injurious situation of the Union industry considerably. As already analysed in recitals 85-89, during the period considered, they managed not only to maintain their market share but to increase it. In addition, during the same period, the average import price decreased (recital 89) causing a further downward pressure on the Union price, leading to a decrease of Union prices of 12 % throughout the period considered (see recital 127) and further impairment of its financial performance.

(142) The Commission thus concluded that the Union Industry has benefitted from the original measures, as it continued to recover from the effect of past injurious dumping for the first two years 2013-2014 of the period considered. However, the recovery process stalled due to the abovementioned factors.

4.7. **Likelihood of recurrence of injury from Chinese imports**

4.7.1. *Preliminary remarks*

(143) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether material injury from Chinese imports would recur should measures against the PRC be allowed to lapse. The investigation has shown that the imports from the PRC were made at dumped price levels during the RIP (recital 57) and that there was a likelihood of continuation of dumping should measures be allowed to lapse (recital 70).

(144) To establish the likelihood of recurrence of injury the following elements were analysed: (i) the production capacity and spare capacity available in the PRC, (ii) possible price levels of Chinese imports should measures be allowed to lapse, (iii) the behaviour of Chinese exporting producers in other third countries, (iv) the attractiveness of the Union market and (v) the impact of Chinese imports on the situation of the Union industry should measures be allowed to lapse.

4.7.1.1. Production capacity and spare capacity available in the PRC

(145) As explained in recital 60, producers in the PRC have significant production capacity in China and, as a result spare capacity which largely exceeds not only the export quantity to the Union during the RIP but the total Union consumption during the RIP.

(146) In addition, as stated in recital 63 there were no elements found that could indicate any significant increase of domestic demand of SRC in the PRC or in any other third country market in the near future. The Commission therefore concluded that domestic demand in China or in other third country markets could not absorb the available spare capacity.

4.7.1.2. Possible price levels of Chinese imports

(147) As mentioned in recital 18, the only cooperating exporting producer group in the PRC did not however report its export sales to other third country markets. Therefore, in the absence of any other information, the PRC database was used to establish Chinese export prices to other third country markets.

(148) Price levels of those exports were also considered as a reasonable estimate on possible future price levels to the Union should measures be allowed to lapse.

(149) As explained in recital 69, export prices from the PRC to other export markets were, on average, significantly below the export prices to the Union, namely by around 30 %. On that basis, it was concluded that there is a considerable margin for the producers in the PRC to reduce export prices to the Union.

(150) In addition, the import price of the cooperating exporting producer group without taking into account the anti-dumping duties, undercut the Union industry sales prices by 36,3 % during the RIP as mentioned in recital 84. This is considered to be a reasonable indication of possible future price levels to the Union should measures be allowed to lapse.

4.7.1.3. Behaviour of Chinese SRC exporting producers in other third countries

(151) In the absence of other available information, the PRC database was used to establish the Chinese export prices to other third markets, as explained under recitals 64 and 65.

(152) According to that information the Chinese SRC export prices to other third markets were found on average between around 40 % to up to around 80 % lower than the Union industry's sales prices depending on the export market.

(153) The top three Chinese SRC export destinations in terms of volume during the RIP, were the Republic of Korea (123 891 tonnes or 11 % of their total exports), the USA (97 936 tonnes or 9 % of their total exports) and Vietnam (76 344 tonnes or 7 % of their total exports). The average export prices to those markets were of 1 107 EUR/tonne, 1 444 EUR/tonne and 781 EUR/tonne respectively. The average prices to those countries were thus between 50 % to around 80 % lower than the average price of the Union industry.

4.7.1.4. Attractiveness of the Union market

(154) Taking under consideration the price analysis in the previous recital, if the measures are allowed to lapse the Chinese exporting producers would have significant capacity to lower their import prices to the Union market while still realising higher prices on the Union market than on other third country markets. There is therefore a high incentive for Chinese exporting producers to divert their exports to the Union where they would achieve higher prices, while still being able to significantly undercut the Union industry sales price. In addition, they would have an incentive to export at least part of their spare capacities at low prices to the Union market.

(155) Another indication of the Union market's attractiveness is the fact that since the beginning of the imposition of the measures, there were attempts for circumvention from Chinese exporters which were identified and neutralised as explained in recitals 2 and 4.

(156) Also the presence of the dumped imports from the PRC despite the measures in force since 1999 confirms the attractiveness of the Union market.

(157) It is therefore concluded that the exporting producers in the PRC have the potential and incentive to substantially raise the volume of their exports of SRC to the Union at dumped prices substantially undercutting the prices of the Union industry, should measures be allowed to lapse.

4.7.2. *Impact on the Union industry*

(158) The Union industry, under the scenario that it keeps the current price level, will not be able to maintain their sales volume and market share against the low priced imports from China. It is highly likely that the Chinese market share would increase rapidly if the measures are allowed to lapse. This would be most likely at the expense of the Union industry since their price level is the highest. Losing sales volume would lead to an even lower utilisation rate and an increase in the average cost of production. This would lead to a further deterioration of the financial situation of the Union industry and of the loss making situation that already materialised during the RIP.

(159) However, should the Union industry decide to lower its price levels in an attempt to keep its sales volume and market share, the deterioration of its financial situation will almost immediately occur and the loss-making situation observed during the RIP will significantly worsen.

(160) Under both scenarios, the impact of the expiry of the measures is likely to have a negative impact on the Union industry, especially for employment. During the period considered the Union industry was already forced to reduce the product-related employment by 9 % (see Table 9). Further deterioration of the Union industry's situation might cause the shutdown of whole producing units.

(161) Therefore, it can be concluded that there is a strong likelihood that the expiry of the existing measures would lead to a recurrence of injury from Chinese imports of SRC and that the already injurious situation of the Union industry will be likely to further deteriorate.

(162) During the period considered 2007-2010 of the previous expiry review, the economic situation of the Union industry developed positively. It has managed to retain its profitability close to the target profit of 5 % even during the first two years 2013-2014 of the current period considered. Therefore, the Union industry has proven to be a structurally viable industry and capable of reversing a loss-making situation. However, during the period considered in the current expiry review, the Union industry returned to a fragile financial situation which is expected to deteriorate even further should the measures expire. It would then not be able to recover from the current injurious situation and, instead, would suffer further injury due to very likely increase in Chinese SRC imports at dumped prices.

(163) It is acknowledged that SRC imports from the Republic of Korea and other third countries, given their volume and low price levels, are factors contributing to the injury suffered by the Union industry. However, this investigation was, in accordance with Article 11(2) of the basic Regulation, limited to assessing whether there is a likelihood of recurrence of injury from injuriously-priced Chinese SRC imports should the current anti-dumping measures expire. Given the fragile situation of the Union industry, any significant increase in Chinese imports would worsen that situation due to the significant spare capacities in the PRC, the attractiveness of the Union market and the possible low price levels of Chinese SRC exports to the Union.

(164) The fact that Chinese SRC imports are currently entering the Union market in much lower numbers than before the imposition of measures shows that the current anti-dumping duties successfully re-established undistorted competitive conditions between Chinese exporters of the product under review and the Union industry. The fact that imports from the Republic of Korea and other third countries undercut Chinese imports, does not undermine the Commission's obligations to remain within the framework of this investigation. As set out in recital 165, the Commission has demonstrated that strong likelihood that the expiry of the measures would lead to recurrence of injury.

4.7.3. *Conclusion*

(165) The Commission concluded that repeal of the measures would in all likelihood result in a significant increase of Chinese dumped SRC imports at prices undercutting the Union industry prices, therefore further aggravating the injury suffered by the Union industry. As a consequence, the viability of the Union industry would be at serious risk.

5. UNION INTEREST

(166) In accordance with Article 21 of the basic Regulation, the Commission examined whether the maintenance of the existing anti-dumping measures would be against 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 and users.

(167) All interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.

(168) It should be recalled that, in the previous expiry review, the adoption of measures was considered not to be against the interest of the Union. Furthermore, the fact that the present investigation is an expiry review, thus analysing a situation in which anti-dumping measures have already been in place, allows the assessment of any undue negative impact on the parties concerned by the current anti-dumping measures.

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

5.1. Interest of the Union industry

(170) The investigation has also shown that should the measures expire, this would likely have a significant negative effect on the Union industry and its currently fragile financial situation would deteriorate further. The expiry of the measures would seriously threaten the viability of the Union industry forcing the Union producers to close their operations rendering the Union market fully dependent on SRC imports.

(171) In the past, the Union industry proved to be a viable industry with positive economic and financial results. It managed to remain profitable with profit margin exceeding the target profit.

(172) Therefore, maintaining the anti-dumping measures in force is in the interest of the Union industry.

5.2. Interest of importers

(173) As indicated in recitals 20 to 22 and 24, no importer cooperated in this investigation nor provided the requested information. It is recalled that in the previous investigations it was found that the impact of the imposition of measures on importers would not be significant. In the absence of evidence suggesting otherwise, it can accordingly be confirmed that the measures currently in force had no substantial negative effect on their financial situation and that the continuation of the measures would not unduly affect importers.

5.3. Interest of users

(174) SRC are used in a wide variety of applications such as fishing, maritime/shipping, oil and gas industries, mining, forestry, aerial transport, civil engineering, construction, and elevators.

(175) As indicated in recitals 23 and 24, no user cooperated in this investigation nor provided the requested information. Some of the users that made themselves known stated that they only marginally use SRC. Therefore it was concluded, as in the previous investigations, that the measures currently in force did not have any substantial negative effect on the economic situation of users, and that thus the continuation of measures would not unduly affect the situation of the user industries.

5.4. Conclusion on Union interest

(176) Therefore, the Commission concluded that there are no compelling reasons of Union interest against the maintenance of the definitive anti-dumping measures on imports of SRC originating in the PRC.

6. ANTI-DUMPING MEASURES

(177) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained on imports of SRC originating in the PRC. They were also granted a period to make representations subsequent to this disclosure. No comments were received from any of the parties.

(178) As outlined in recital 6, the anti- dumping duties in force on imports of SRC from the PRC were extended to cover, in addition, imports of SRC consigned from Morocco and the Republic of Korea, whether declared as originating in Morocco or the Republic of Korea or not. The anti- dumping duty to be maintained on imports of the SRC originating in the PRC should continue to be extended to imports of SRC consigned from Morocco and the Republic of Korea, whether declared as originating in Morocco and the Republic of Korea or not. The exporting producer in Morocco exempted from the measures as extended by Regulation (EC) No 1886/2004 should also be exempted from the measures imposed by this Regulation. The 15 exporting producers in the Republic of Korea exempted from the measures as extended by Implementing Regulation (EU) No 400/2010 should also be exempted from the measures imposed by this Regulation.

(179) In view of the recent case-law of the Court of Justice ([1]) it is appropriate to provide for the rate of default interest to be paid in case of reimbursement of definitive duties, because the relevant provisions in force concerning customs duties do not provide for such an interest rate, and the application of national rules would lead to undue distortions between economic operators depending on which Member State is chosen for customs clearance.

(180) The measures provided for in this Regulation are 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 steel ropes and cables including locked coil ropes, excluding ropes and cables of stainless steel, with a maximum cross-sectional dimension exceeding 3 mm, currently falling within CN codes ex 7312 10 81, ex 7312 10 83, ex 7312 10 85, ex 7312 10 89 and ex 7312 10 98 (TARIC codes 7312 10 81 12, 7312 10 81 13, 7312 10 81 19, 7312 10 83 12, 7312 10 83 13, 7312 10 83 19, 7312 10 85 12, 7312 10 85 13, 7312 10 85 19, 7312 10 89 12, 7312 10 89 13, 7312 10 89 19, 7312 10 98 12, 7312 10 98 13 and 7312 10 98 19).

2. The rate of the definitive anti-dumping duty applicable to the CIF net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and originating in the PRC shall be 60,4 %.

3. The definitive anti-dumping duty applicable to imports originating in the PRC, as set out in paragraph 2, is hereby extended to imports of the same steel ropes and cables consigned from Morocco, whether declared as originating in Morocco or not (TARIC codes 7312 10 81 12, 7312 10 83 12, 7312 10 85 12, 7312 10 89 12 and 7312 10 98 12) with the exception of those produced by Remer Maroc SARL, Zone Industrielle, Tranche 2, Lot 10, Settat, Morocco (TARIC additional code A567) and to imports of the same steel ropes and cables consigned from the Republic of Korea, whether declared as originating in the Republic of Korea or not (TARIC codes 7312 10 81 13, 7312 10 83 13, 7312 10 85 13, 7312 10 89 13 and 7312 10 98 13), with the exception of those produced by the companies listed below:

Country	Company	TARIC additional code
The Republic of Korea	Bosung Wire Rope Co., Ltd, 568,Yongdeok-ri, Hallim-myeon, Gimae-si, Gyeongsangnam-do, 621-872	A969
	Chung Woo Rope Co., Ltd, 1682-4, Songjung-Dong, Gangseo- Gu, Busan	A969
	CS Co., Ltd, 31-102, Junam maeul 2-gil, Yangsan, Gyeongsangnam-do	A969
	Cosmo Wire Ltd, 4-10, Koyeon-Ri, Woong Chon-Myon Ulju- Kun, Ulsan	A969
	Dae Heung Industrial Co., Ltd, 185 Pyunglim — Ri, Daesan- Myun, Haman — Gun, Gyungnam	A969
	Daechang Steel Co., Ltd, 1213, Aam-daero, Namdong-gu, Incheon	C057
	DSR Wire Corp., 291, Seonpyong-Ri, Seo-Myon, Suncheon-City, Jeonnam	A969

([1]) Judgment in Wortmann, C-365/15, EU:C:2017:19, paragraphs 35 to 39.

Country	Company	TARIC additional code
	Goodwire MFG. Co. Ltd, 984-23, Maegok-Dong, Yangsan-City, Kyungnam	B955
	Kiswire Ltd, 37, Gurak-Ro, 141 Beon-Gil, Suyeong-Gu, Busan, Korea 48212	A969
	Manho Rope & Wire Ltd, Dongho Bldg, 85-2 4 Street Joongang- Dong, Jong-gu, Busan	A969
	Line Metal Co. Ltd, 1259 Boncho-ri, Daeji-Myeon, Changnyeong-gun, Gyeongnam	B926
	Seil Wire and Cable, 47-4, Soju-Dong, Yangsan-Si, Kyungsangnamdo	A994
	Shin Han Rope Co., Ltd, 715-8, Gojan-Dong, Namdong-gu, Incheon	A969
	Ssang Yong Cable Mfg. Co., Ltd, 1559-4 Song-Jeong Dong, Gang-Seo Gu, Busan	A969
	Young Heung Iron & Steel Co., Ltd, 71-1 Sin-Chon Dong, Changwon City, Gyungnam	A969

Article 2

Unless otherwise specified, the relevant provisions in force concerning customs duties shall apply. The default interest to be paid in case of reimbursement that gives rise to a right to payment of default interest shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union*, in force on the first calendar day of the month in which the deadline falls, increased by one percentage point.

Article 3

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 April 2018.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2018/608

of 19 April 2018

laying down technical criteria for electronic tags for marine equipment

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC ([1]), and in particular Article 11(4) thereof,

Whereas:

(1) Directive 2014/90/EU confers implementing powers upon the Commission in order to lay down appropriate technical criteria as regards the design, performance, affixing and use of those electronic tags.

(2) A cost-benefit analysis ([2]) was carried out and gave a positive assessment of the use of electronic tags as a supplement to the wheel mark.

(3) Electronic tagging of marine equipment does not require heavy investment but brings about benefits to manufacturers, ship owners and operators and market surveillance authorities.

(4) The specifications provided for in this Regulation draw on a comparison of available technologies performed in the framework of the cost-benefit analysis, as well as on its suggestions for the appropriate structure of the codes used for the identification of marine equipment.

(5) The comparison of existing data carriers and data exchange architectures in the framework of the cost-benefit analysis resulted in the recommendation to use data matrix codes and radio-frequency identification ('RFID') as the most appropriate technologies.

(6) The cost-benefit analysis also indicated that the limited data storage capacity on the electronic tag implies that the information on the electronic tag has to provide a link to databases where more detailed information can be found. The data matrix codes and radio frequency identification ('RFID') specified by this Regulation contain the key information able to provide for such a link.

(7) Consequently, a unique identification of marine equipment, based on a standardised code structure independent from the electronic tag type should be used. Such an identification should be flexible enough to enable the direct access of users to the most relevant databases for marine equipment.

(8) The format of encoding the required information on the data carrier should be based on ISO standards. The format should also allow for the possibility to encode additional information for the use of the manufacturers, in particular as manufacturers should be able to embed into the data carrier additional security features in order to better identify counterfeited products.

(9) In order to be easily retrievable by visual inspection, marine equipment with electronic tags which replace the wheel mark should display an appropriate symbol.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships ('COSS'),

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, the following definitions shall apply:

(1) 'electronic tag' means a marker with radio frequency identification ('RFID') or with a data matrix code;

(2) 'application identifier' means a numeric prefix used to define the meaning and format of encoded data elements.

([1]) OJ L 257, 28.8.2014, p. 146.

([2]) 'The possible introduction of an electronic tag as a supplement or a replacement of the wheel mark in marine equipment', Call for Tenders No MOVE/D2/2015-372 V1.0 of the European Commission DG Mobility and Transport.

Article 2

Manufacturers of marine equipment may use the following electronic tags as specified in the Annex:

(a) RFID tags affixed permanently on a marine equipment item;

(b) optically readable tags containing data matrix codes affixed permanently on a marine equipment item; or

(c) optically readable tags containing data matrix codes permanently marked on a marine equipment item.

Article 3

RFID electronic tags which replace the wheel mark shall visibly, legibly and indelibly display the symbol set out in points 3.1 or 3.2 of the Annex, either on the tags themselves or adjacent to them.

Marine equipment with optically readable tags containing data matrix codes which replace the wheel mark shall visibly, legibly and indelibly display the symbol set out in point 3.3 of the Annex, either on the tags themselves or adjacent to them.

Article 4

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

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

Done at Brussels, 19 April 2018.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

1. **Identification of marine equipment**

1.1. Electronic tags for marine equipment shall comprise an electronically readable identification in radio frequency identification ('RFID') or optically readable data matrix code containing the following information:

(a) an appropriate application identifier in accordance with ISO/IEC 15434:2006 and ISO/IEC 15418:2016, using either an ASC MH10 Data Identifier or a GS1 Application Identifier;

(b) the type of conformity assessment module(s) set out in Annex II to Directive 2014/90/EU used for the conformity assessment [one digit alphabetical];

(c) the notified body identification number assigned by the Commission in accordance with point 3.1 of Annex IV to Directive 2014/90/EU [4 digits];

(d) the number(s) of the unit verification (Module G) or EC type examination and conformity to type certificates (Module B and D, E or F) [maximum 20 alpha-numeric digits].

1.2. In addition to the information provided pursuant to point 1.1, electronic tags may also contain information relating to the production site number, a product code, the lot or batch number and/or additional information designed by the manufacturer in accordance with ISO/IEC 15434:2006 [using either ASC MH10 Data Identifiers or GS1 Application Identifiers].

1.3. Examples:

Modules B+D: [see point 1.2.] + ([appropriate identifier]) B 0575 40123 + D 0038 040124

Modules B+E: [see point 1.2.] + ([appropriate identifier]) B 0575 40123 + E 0038 040125

Modules B+F: [see point 1.2.] + ([appropriate identifier]) B 0575 40123 + F 0038 040126

Module G: [see point 1.2.] + ([appropriate identifier]) G 0575 040126.

2. **Electronic tags**

2.1. *RFID tags*

RFID transponders shall operate in the frequency range of 860 MHz to 960 MHz in accordance to ISO/IEC 18000-6:2004 Type C.

The electronic tag shall be firmly affixed to the marine equipment concerned in a durable way and so as to ensure that the electronic tag will be able to be read as intended for the expected lifetime of the marine equipment.

2.2. *Data matrix codes*

Data matrix codes shall be in accordance with ISO/IEC 16022:2006.

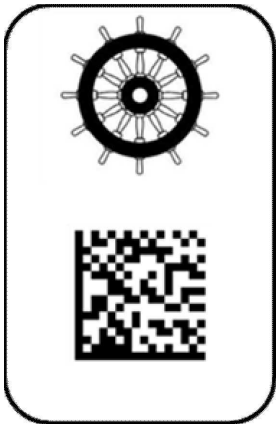
The electronic tag shall be marked on or firmly affixed to the marine equipment concerned in a durable way and so as to ensure that the electronic tag will be able to be read as intended for the expected lifetime of the marine equipment.

3. **Symbols**

3.1.

3.2.

3.3.



COMMISSION IMPLEMENTING REGULATION (EU) 2018/609

of 19 April 2018

on the maximum buying-in price for skimmed milk powder for the second individual invitation to tender within the tendering procedure opened by Implementing Regulation (EU) 2018/154

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products [1], and in particular Article 3 thereof,

Whereas:

(1) Commission Implementing Regulation (EU) 2018/154 [2] has opened buying-in of skimmed milk powder by a tendering procedure for the public intervention period from 1 March to 30 September 2018, in accordance with the conditions provided for in Commission Implementing Regulation (EU) 2016/1240 [3].

(2) In accordance with Article 14(1) of Implementing Regulation (EU) 2016/1240, on the basis of the tenders received in response to individual invitations to tender, the Commission has to fix a maximum buying-in price or to decide not to fix a maximum buying-in price.

(3) In the light of the tenders received for the second individual invitation to tender, a maximum buying-in price should not be fixed.

(4) 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 second individual invitation to tender for the buying-in of skimmed milk powder within the tendering procedure opened by Implementing Regulation (EU) 2018/154, in respect of which the time limit for the submission of tenders expired on 17 April 2018, no maximum buying-in price shall be 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 April 2018.

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

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[1] OJ L 346, 20.12.2013, p. 12.
[2] Commission Implementing Regulation (EU) 2018/154 of 30 January 2018 opening a tendering procedure for buying-in skimmed milk powder during the public intervention period from 1 March to 30 September 2018 (OJ L 29, 1.2.2018, p. 6).
[3] 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 (OJ L 206, 30.7.2016, p. 71).

COMMISSION IMPLEMENTING REGULATION (EU) 2018/610

of 19 April 2018

on the minimum selling price for skimmed milk powder for the 19th 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 19th partial invitation to tender, a minimum selling price should be fixed.

(3) The Committee for the Common Organisation of the Agricultural Markets has not delivered an opinion within the time limit laid down by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

For the 19th 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 April 2018, the minimum selling price shall be 105,10 EUR/100 kg.

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 April 2018.

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

COUNCIL DECISION (CFSP) 2018/611

of 19 April 2018

amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal of the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

(1) On 27 May 2016 the Council adopted Decision (CFSP) 2016/849 ([1]), which sets out restrictive measures against the Democratic People's Republic of Korea (DPRK).

(2) The DPRK is continuing its nuclear and ballistic programmes in breach of its obligations as set out in several United Nations Security Council resolutions. Those programmes are financed in part by illicit transfers of funds and economic resources.

(3) Four persons who provided for the transfer of assets or resources that could financially contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes should be added to the list of persons and entities in Annex II to Decision (CFSP) 2016/849.

(4) Annex II to Decision (CFSP) 2016/849 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Annex II to Decision (CFSP) 2016/849 is amended as set out in the Annex to this Decision.

Article 2

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

Done at Brussels, 19 April 2018.

For the Council
The President
E. ZAHARIEVA

([1]) Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP (OJ L 141, 28.5.2016, p. 79).

ANNEX

Annex II to Decision (CFSP) 2016/849 is amended as follows:

(1) heading II is replaced by the following:

'II. Persons and entities providing financial services or the transfer of assets or resources that could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes';

(2) under heading II, the following entries are added under the subheading 'A. Persons':

	Name	Alias	Identifying information	Date of designation	Statement of Reasons
'9.	KIM Yong Nam	KIM Yong-Nam, KIM Young-Nam, KIM Yong-Gon	DOB: 2.12.1947 POB: Sinuju, DPRK	20.4.2018	KIM Yong Nam has been identified by the Panel of Experts as an agent of the Reconnaissance General Bureau, an entity which has been designated by the United Nations. He and his son KIM Su Gwang have been identified by the Panel of Experts as engaging in a pattern of deceptive financial practices which could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes. KIM Yong Nam has opened various current and savings accounts in the Union and has been involved in various large bank transfers to bank accounts in the Union or to accounts outside the Union while working as a diplomat, including to accounts in the name of his son KIM Su Gwang and daughter-in-law KIM Kyong Hui.
10.	DJANG Tcheul Hy		DOB: 11.5.1950 POB: Kangwon	20.4.2018	DJANG Tcheul Hy has been involved together with her husband KIM Yong Nam, her son KIM Su Gwang and her daughter-in-law KIM Kyong Hui in a pattern of deceptive financial practices which could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes. She was the owner of several bank accounts in the Union which were opened by her son KIM Su Gwang in her name. She was also involved in several bank transfers from accounts from her daughter-in-law KIM Kyong Hui to bank accounts outside the Union.
11.	KIM Su Gwang	KIM Sou-Kwang, KIM Sou-Gwang, KIM Son-Kwang, KIM Su-Kwang, KIM Soukwang	DOB: 18.8.1976 POB: Pyongyang, DPRK Diplomat, DPRK Embassy Belarus	20.4.2018	KIM Su Gwang has been identified by the Panel of Experts as an agent of the Reconnaissance General Bureau, an entity which has been designated by the United Nations. He and his father KIM Yong Nam have been identified by the Panel of Experts as engaging in a pattern of deceptive financial practices which could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes. KIM Su Gwang has opened multiple bank accounts in several Member States, including under family members' names. He has been involved in various large bank transfers to bank accounts in the Union or to accounts outside the Union while working as a diplomat, including to accounts in the name of his spouse KIM Kyong Hui.

	Name	Alias	Identifying information	Date of designation	Statement of Reasons
12.	KIM Kyong Hui		DOB: 6.5.1981 POB: Pyongyang, DPRK	20.4.2018	KIM Kyong Hui has been involved together with her husband KIM Su Gwang, her father-in-law KIM Yong Nam and her mother-in-law DJANG Tcheul Hy in a pattern of deceptive financial practices which could contribute to the DPRK's nuclear-related, ballistic-missile-related or other weapons of mass destruction-related programmes. She received several bank transfers from her husband KIM Su Gwang and father-in-law KIM Yong Nam, and transferred money to accounts outside the Union in her name or the name of her mother-in-law, DJANG Tcheul Hy.'

COMMISSION DECISION (EU) 2018/612

of 7 April 2016

on State aid SA.28876 - 2012/C (ex CP 202/2009) implemented by Greece for Container Terminal Port of Piraeus

(notified under document C(2018) 1978)

(Only the Greek 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,

Whereas:

1. PROCEDURE

(1) On 23 March 2015, the Commission adopted a final decision ([1]) ('final decision') with which it concluded that Greece had unlawfully put into effect in breach of Article 108(3) of the Treaty on the Functioning of the European Union, incompatible aid measures in favour of Piraeus Container Terminal S.A ('PCT') and its mother company and creditor, Cosco Pacific Limited ('Cosco'), and ordered the abolition and the recovery of the aid measures concerned.

(2) On 2 June 2015, Greece appealed the final decision before the General Court of the European Union.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. The final decision

(3) In 2009 the Commission received complaints concerning several fiscal measures granted by law 3755/2009 ('the Law') to the concession holder of a part of the Port of Piraeus, Cosco and its subsidiary PCT ([2]). These exemptions relate to the initial concession granted in 2008. On 11 July 2012 the Commission opened a formal investigation procedure raising doubts concerning these tax exemptions ('opening decision') ([3]). On 23 March 2015, the Commission concluded the formal investigation of the case and considered that the following measures constituted unlawful and incompatible State aid ([4]):

— Exemption from income tax on interest accrued until the date of commencement of operation of pier III;

— Right to VAT credit refund irrespective of the stage of completion of the contract object; definition of the notion of 'investment good' for the purposes of VAT rules; right to arrear interests from the first day following the 60th day after the VAT refund request;

— Loss carry forward without any temporal limitation;

— Choice among three depreciation methods concerning the investment costs of the reconstruction of Pier II and the construction of Pier III;

— Exemption from stamp duty on the loan agreements and any ancillary agreements for the funding of the project;

— Exemption from taxes, stamp duties, contributions and any rights in favour of the State or third parties on the contracts between the creditors of the loan agreements under which are transferred the obligations and rights resulting therefrom;

([1]) OJ L 269, 15.10.2015, p. 93.
([2]) See recitals 10 to 19 of the final decision.
([3]) OJ C 301, 5.10.2012, p. 55.
([4]) See Article 1 of the final decision.

— Exemption from stamp duties for any compensation paid by Port Piraeus Authority ('PPA') to PCT under the Concession contract, which is outside the scope of the VAT code;

— Protection under the special regime for foreign investments.

(4) In the same decision the Commission concluded that Greece did not grant State aid by exempting PCT from rules concerning forced expropriation ([1]).

2.2. **The measure under assessment: stamp duty exemption for compensations paid by PPA to PCT** ([2])

(5) Regarding the exemption from stamp duty for compensations paid by PPA to PCT, in the final decision, the Commission concluded that it entailed a selective advantage in favour of PCT in that it alleviated it from the payment of stamp duties in the case of: (a) compensation paid by PPA due to the activation of a penalty clause of the concession contract, and (b) other types of compensation paid by PPA, such as for damages related to the concession contract or for international breach of contract ([3]).

(6) Concerning in particular the case of compensation paid by PPA due to the activation of a penalty clause (i.e. under (a) in the immediately above recital) the Commission concluded that the advantage conferred to PCT consisted in its alleviation from the payment of a fixed stamp duty ([4]) in such cases. This conclusion was based on the consideration that according to the generally applicable framework, i.e. the stamp duty code ([5]) as interpreted by circular 44/1987, the activation of an ancillary agreement related to a contract subject to VAT is subject to a fixed stamp duty ([6]).

(7) However, in its application for annulment of the final decision before the General Court, Greece indicated that fixed stamp duties have been generally abolished since 2001 ([7]), i.e. before law 3755/2009 introduced the relevant exemption in favour of PCT.

3. **ASSESSMENT OF THE MEASURE**

(8) During the administrative procedure that led to the final decision, the Greek authorities never brought to the Commission's attention the fact that fixed stamp duties have been abolished since 2001, by virtue of Article 25 of law 2873/2000. The Greek authorities never mentioned this fact, although the opening decision had opened the formal investigation procedure of Article 108(2) TFEU with respect to the exemption of PCT from stamp duties *in general* (including fixed and proportional stamp duties), provided to PCT on the basis of Article 2(10) of the Law ([8]). Therefore, on the basis of the information available to the Commission when the final decision was adopted, the Commission was entitled to conclude that Article 2(10) of the Law granted incompatible State aid to PCT by exempting it from both fixed and proportional stamp duties on compensation paid by PPA to PCT under the concession contract ([9]).

(9) Even if the Greek authorities belatedly ([10]) informed the Commission on the general abolishment of fixed stamp duties, the Commission, acting as a sound administration and although not obliged to modify the final decision, wishes however to modify that final decision, in order to fully reflect the present situation. Specifically, in view of Article 25 of law 2873/2000, the Commission has no longer any reason to consider that the exemption of Article 2(10) of the Law confers an advantage to PCT in case PPA pays compensations to PCT due to the activation of a penalty clause of the concession contract. According to the generally applicable rules for this type of compensation payment, no stamp duty was due at the time law 3755/2009 was adopted. Therefore, the relevant stamp duty exemption does not confer a selective advantage to PCT and, thus, does not constitute State aid, in this respect.

(10) As the Commission was only made aware of this information after the adoption of its final decision in this case, within the spirit of good public administration, it now decides to amend its decision of 23 March 2015 as regards this specific advantage of the measure. The final decision is not in any manner modified with respect to PCT's exemption from the (proportional) stamp duty normally due for other types of compensation paid by PPA (i.e. under (b) in recital 5 of the present decision).

([1]) See Article 2 of the final decision.
([2]) Article 2, paragraph 10 of law 3755/2009.
([3]) See recitals 195-209 of the final decision, and in particular recitals 202-205.
([4]) See recitals 201-203 of the final decision.
([5]) Presidential decree of 28-7-1931, OJ A239 1931.
([6]) See recital 197 of the final decision.
([7]) According to Article 25 of law 2873/2000.
([8]) See section 4.2.3.8 (recitals 194-203) of the opening decision.
([9]) See also Case C-390/06 Nuova Agricast EU:C:2008:224, para. 54.
([10]) For the first time with the application for annulment of the final decision before the General Court.

4. **CONCLUSION**

(11) The Commission has accordingly decided that Greece has not granted State aid to PCT in the form of exemption from the payment of stamp duties in case PPA pays compensation to PCT due to the activation of a penalty clause of the concession contract. Therefore, it amends its decision of 23 March 2015 as regards this aspect of the measure. All the other conclusions of the said decision remain the same,

HAS ADOPTED THIS DECISION:

Article 1

In the seventh numbered point of Article 1 of the Decision in case SA.28876 regarding Container terminal Port Piraeus & Cosco Pacific Limited (OJ L 269, 15.10.2015, p. 93) a second sentence is added:

'this measure does not cover compensation to PCT due to the activation of a penalty clause of the Concession contract, where anyway no stamp duty is due;'

Article 2

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 7 April 2016.

For the Commission
Margrethe VESTAGER
Member of the Commission

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