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Price: EUR 4

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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 12 July 2010

**on the signature of an Agreement between the European Union and the Government of the
Federative Republic of Brazil on civil aviation safety**

(2010/489/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) and Article 207(4) in conjunction with Article 218(5) and the first subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Commission has negotiated, on behalf of the European Union, an Agreement on civil aviation safety with the Government of the Federative Republic of Brazil in accordance with the Council Decision of 9 October 2009 authorising the Commission to open negotiations.
- (2) The Agreement negotiated by the Commission should be signed, subject to its possible conclusion at a later stage.
- (3) The Member States should take the necessary measures to ensure that their bilateral agreements with Brazil on the same subject are terminated as of the date of the entry into force of the Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Agreement between the European Union and the Government of the Federative Republic of Brazil on civil aviation safety (hereinafter 'the Agreement') is hereby approved on behalf of the Union, subject to the conclusion of the 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, subject to its conclusion.

Article 3

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

Done at Brussels, 12 July 2010.

*For the Council**The President*

S. LARUELLE

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

COUNCIL DECISION

of 26 July 2010

on the conclusion, on behalf of the Union, of the Arrangement between the European Community, of the one part, and the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

(2010/490/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(b) and Article 74 in conjunction with Article 218(6)(a)(v) thereof,

Having regard to the proposal from the European Commission,

- (4) In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of the Protocol, decide within a period of six months after the Council has decided on this Decision whether it will implement it in its national law.

Having regard to the consent of the European Parliament,

Whereas:

- (1) Article 21(3) of Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ⁽¹⁾ provides for countries associated with the implementation, application and development of the Schengen *acquis* to participate in the Agency. The modalities of their participation are to be specified in further arrangements to be concluded between the Union and those countries.

- (5) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽²⁾. The United Kingdom is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

- (2) Following the authorisation given to the Commission on 11 March 2008, negotiations with the Swiss Confederation and the Principality of Liechtenstein for an Arrangement on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union have been concluded.

- (6) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽³⁾. Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

⁽¹⁾ OJ L 349, 25.11.2004, p. 1.

⁽²⁾ OJ L 131, 1.6.2000, p. 43.

⁽³⁾ OJ L 64, 7.3.2002, p. 20.

(7) The Arrangement should be concluded,

HAS ADOPTED THIS DECISION:

Article 1

The Arrangement between the European Community, of the one part, and the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union⁽¹⁾ ('the Arrangement') is hereby approved on behalf of the Union.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit on behalf of the Union the instrument of approval provided for in Article 9(4) of the Arrangement in order to express the consent of the Union to be bound and make the following notification:

'As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has

replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "European Community" in the text of the Arrangement are, where appropriate, to be read as "European Union".'

Article 3

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

Article 4

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 26 July 2010.

For the Council

The President

S. VANACKERE

⁽¹⁾ See page 4 of this Official Journal.

ARRANGEMENT

between the European Community, of the one part, and the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

THE EUROPEAN COMMUNITY,

of the one part, and

THE SWISS CONFEDERATION,

hereinafter referred to as 'Switzerland', and

THE PRINCIPALITY OF LIECHTENSTEIN,

hereinafter referred to as 'Liechtenstein',

of the other part,

HAVING REGARD TO the Agreement signed on 26 October 2004 between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, hereinafter referred to as 'the Agreement',

HAVING REGARD TO the Protocol signed on 28 February 2008 between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, hereinafter referred to as 'the Protocol',

HAVING REGARD TO the Joint Declaration by the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union attached to the Protocol,

HAVING REGARD TO the Arrangement between the European Community and the Republic of Iceland and the Kingdom of Norway on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ⁽¹⁾,

Whereas:

- (1) By Council Regulation (EC) No 2007/2004 ⁽²⁾, hereinafter referred to as 'the Regulation', the European Community established the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, hereinafter referred to as the 'Agency'.
- (2) The Regulation constitutes a development of the Schengen *acquis* within the meaning of the Agreement and the Protocol.
- (3) The Regulation confirms that countries associated with the implementation, application and development of the Schengen *acquis* should participate fully in activities of the Agency, albeit with limited voting rights.
- (4) Liechtenstein does not have external borders to which the Schengen Borders Code applies.
- (5) The Agreement and the Protocol do not address the modalities of the association of Switzerland and Liechtenstein with the activities of new bodies set up by the European Union in the framework of the further development of the Schengen *acquis*, and certain aspects of the association with the Agency should be settled in an additional arrangement between the Parties to the Agreement and the Protocol,

⁽¹⁾ OJ L 188, 20.7.2007, p. 19.

⁽²⁾ OJ L 349, 25.11.2004, p. 1.

HAVE AGREED AS FOLLOWS:

Article 1

The Management Board

1. Switzerland and Liechtenstein shall be represented on the Management Board of the Agency, as laid down in Article 21(3) of the Regulation.

2. Switzerland shall have voting rights:

(a) as regards decisions on specific activities to be carried out at its external borders. Proposals for such decisions shall require a vote in favour of their adoption by its representative on the Management Board;

(b) as regards decisions on specific activities under Article 3 (joint operations and pilot projects at external borders), Article 7 (management of technical equipment), Article 8 (support for Member States in circumstances requiring increased technical and operational assistance at external borders) and Article 9(1), first sentence (joint return operations) to be carried out with human resources and/or equipment made available by Switzerland;

(c) as regards decisions on risk analysis (development of the common integrated risk analysis, general and specific risk analysis), directly affecting Switzerland, under Article 4;

(d) as regards decisions on training activities under Article 5, except on establishment of the common core curriculum.

3. Liechtenstein shall have voting rights:

(a) as regards decisions on specific activities under Article 3 (joint operations and pilot projects at external borders), Article 7 (management of technical equipment), Article 8 (support for Member States in circumstances requiring increased technical and operational assistance at external borders) and Article 9(1), first sentence (joint return operations) to be carried out with human resources and/or equipment made available by Liechtenstein;

(b) as regards decisions on risk analysis (development of the common integrated risk analysis, general and specific risk analysis), directly affecting Liechtenstein, under Article 4;

(c) as regards decisions on training activities under Article 5, except on establishment of the common core curriculum.

Article 2

Financial contribution

Switzerland shall contribute to the budget of the Agency in accordance with the percentage laid down in Article 11(3) of the Agreement.

Liechtenstein shall contribute to the budget of the Agency in accordance with Article 3 of the Protocol which refers to the contribution method laid down in Article 11(3) of the Agreement.

Article 3

Protection and confidentiality of data

1. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽¹⁾ shall apply where personal data are forwarded by the Agency to the authorities of Switzerland and Liechtenstein.

2. Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽²⁾ shall apply to data forwarded by the authorities of Switzerland and Liechtenstein to the Agency.

3. Switzerland and Liechtenstein shall respect the rules on confidentiality of documents held by the Agency, as set out in the Rules of Procedure of the Management Board.

Article 4

Legal status

The Agency shall have legal personality under the law of Switzerland and the law of Liechtenstein and shall enjoy in Switzerland and Liechtenstein the most extensive legal capacity accorded to legal persons under the law of Switzerland and the law of Liechtenstein. It may, in particular, acquire or dispose of movable and immovable property and may be party to legal proceedings.

Article 5

Liability

The liability of the Agency shall be governed as provided for in Article 19(1), (3) and (5) of the Regulation.

⁽¹⁾ OJ L 281, 23.11.1995, p. 31.

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

*Article 6***Court of Justice**

1. Switzerland and Liechtenstein shall recognise the jurisdiction of the Court of Justice of the European Communities over the Agency, as provided for in Article 19(2) and (4) of the Regulation.

2. Disputes regarding civil liability shall be resolved in accordance with Article 10b(4) of the Regulation as amended by Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers ⁽¹⁾.

*Article 7***Privileges and immunities**

1. Switzerland and Liechtenstein shall apply to the Agency and to its staff the Protocol on the Privileges and Immunities of the European Communities which is set out in the Annex to this Arrangement.

2. The Annex to this Arrangement, including as regards Switzerland the Appendix on the procedure for application of the Protocol on Privileges and Immunities, shall form an integral part of this Arrangement.

*Article 8***Staff**

1. Switzerland and Liechtenstein shall apply the rules relating to the Agency's staff matters adopted pursuant to the Protocol on the Privileges and Immunities of the European Communities.

2. By way of derogation from Article 12(2)(a) of the Conditions of Employment of other servants of the European Communities, nationals of Switzerland and Liechtenstein enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.

3. Nationals of Switzerland and Liechtenstein may not, however, be appointed to the posts of Executive Director or Deputy Executive Director of the Agency.

4. Nationals of Switzerland and Liechtenstein may not be elected as Chairperson or Deputy Chairperson of the Management Board.

*Article 9***Entry into force**

1. The Secretary-General of the Council of the European Union shall act as depositary of this Arrangement.

2. The European Community, Switzerland and Liechtenstein shall approve this Arrangement in accordance with their own procedures.

3. The entry into force of this Arrangement shall require approval by the European Community and by at least one other Party to this Arrangement.

4. This Arrangement shall enter into force in relation to any Party to this Arrangement on the first day of the first month following the deposit of its instrument of approval with the depositary.

5. As regards Liechtenstein, this Arrangement shall apply as from the date when the provisions referred to in Article 2 of the Protocol are put into effect in accordance with Article 10 of the Protocol.

*Article 10***Validity and termination**

1. This Arrangement shall be concluded for an unlimited period.

2. This Arrangement shall cease to be in force six months after the Agreement is denounced by Switzerland or by decision of the Council of the European Union, or is otherwise terminated in accordance with the procedures described in Articles 7(4), 10 or 17 of the Agreement.

3. This Arrangement shall cease to be in force six months after the Protocol is denounced by Liechtenstein or by decision of the Council of the European Union or is otherwise terminated in accordance with the procedure described in Articles 3, 5(4), 11(1) or 11(3) of the Protocol.

This Arrangement, as well as the Joint Declarations annexed thereto, shall be drawn up in one single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of those texts being equally authentic.

⁽¹⁾ OJ L 199, 31.7.2007, p. 30.

Съставено в Брюксел на тридесети септември две хиляди и девета година.

Hecho en Bruselas el treinta de septiembre de dos mil nueve.

V Bruselu dne třicátého září dva tisíce devět.

Udfærdiget i Bruxelles den tredivte september to tusind og ni.

Geschehen zu Brüssel am dreißigsten September zweitausendneun.

Kahe tuhande üheksanda aasta septembrikuu kolmekümnendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις τριάντα Σεπτεμβρίου δύο χιλιάδες εννιά.

Done at Brussels on the thirtieth day of September in the year two thousand and nine.

Fait à Bruxelles, le trente septembre deux mille neuf.

Fatto a Bruxelles, addì trenta settembre duemilanove.

Briselē, divi tūkstoši devītā gada trīsdesmitajā septembrī

Priimta du tūkstančiai devintų metų rugsėjo trisdešimtą dieną Briuselyje.

Kelt Brüsszelben, a kétezzer-kilencedik év szeptember harmincadik napján.

Magħmul fi Brussell, it-tletin jum ta' Settembru tas-sena elfejn u disgha.

Gedaan te Brussel, de dertigste september tweeduizend negen.

Sporządzono w Brukseli dnia trzydziestego września dwa tysiące dziewiątego roku.

Feito em Bruxelas, em trinta de Setembro de dois mil e nove.

Încheiat la Bruxelles, la treizeci septembrie două mii nouă.

V Bruseli dňa tridsiateho septembra dvetisícdeväť.

V Bruslju, dne tridesetega septembra leta dva tisoč devet.

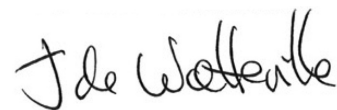
Tehty Brysselissä kolmantenakymmenentenä päivänä syyskuuta vuonna kaksituhattayhdeksän.

Som skedde i Bryssel den trettionde september tjugohundranio.

Za Европейската общност
Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Għall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Pentru Comunitatea Europeană
Za Európske spoločenstvo
Za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Za Конфедерация Швейцария
Por la Confederación Suiza
Za Švýcarskou konfederaci
For Det Schweiziske Forbund
Für die Schweizerische Eidgenossenschaft
Šveitsi Konföderatsiooni nimel
Για την Ελβετική Συνομοσπονδία
For the Swiss Confederation
Pour la Confédération suisse
Per la Confederazione svizzera
Šveices Konfederācijas vārdā
Šveicarijos Konfederacijos vardu
A Svájci Államszövetség részéről
Għall-Konfederazzjoni Svizzera
Voor de Zwitserse Bondsstaat
W imieniu Konfederacji Szwajcarskiej
Pela Confederação Suíça
Pentru Confederația Elvețiană
Za Švajčiarsku konfederáciu
Za Švicarsko konfederacijo
Sveitsin valaliiton puolesta
För Schweiziska edsförbundet



За Княжество Лихтенщайн
Por el Principado de Liechtenstein
Za Lichtenštejnské knížectví
For Fyrstendømmet Liechtenstein
Für das Fürstentum Liechtenstein
Liechtensteini Vürstiriigi nimel
Για το Πριγκιπάτο του Λιχτενστάιν
For the Principality of Liechtenstein
Pour la Principauté de Liechtenstein
Per il Principato del Liechtenstein
Lihtenšteinas Firstistes vārdā
Lichtenšteino Kunigaikštystės vardu
A Liechtensteini Hercegség részéről
Ghall-Prinċipat ta' Liechtenstein
Voor het Vorstendom Liechtenstein
W imieniu Księstwa Liechtensteinu
Pelo Principado do Liechtenstein
Pentru Principatul Liechtenstein
Za Lichtenštajnské kniežatstvo
Za Kneževino Lihtenštajn
Liechtensleinin ruhtinaskunnan puolesta
För Furstendömet Liechtenstein



ANNEX

Protocol on the Privileges and Immunities of the European Communities

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities, these Communities and the European Investment Bank shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to this Treaty:

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN COMMUNITIES*Article 1*

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Communities shall be inviolable.

Article 3

The Communities, their assets, revenues and other property shall be exempt from all direct taxes. The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Communities make, for their official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Communities.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Communities shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for their official use; articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Communities shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of their publications.

Article 5

The European Coal and Steel Community may hold currency of any kind and operate accounts in any currency.

CHAPTER II

COMMUNICATIONS AND LAISSEZ-PASSER*Article 6*

For their official communications and the transmission of all their documents, the institutions of the Communities shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Communities shall not be subject to censorship.

Article 7

1. *Laissez-passer* in a form to be prescribed by the Council, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Communities by the Presidents of these institutions. These *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Communities. The Commission may conclude agreements for these *laissez-passer* to be recognised as valid travel documents within the territory of third countries.

2. The provisions of Article 6 of the Protocol on the Privileges and Immunities of the European Coal and Steel Community shall, however, remain applicable to members and servants of the institutions who are at the date of entry into force of this Treaty in possession of the *laissez-passer* provided for in that Article, until the provisions of paragraph 1 of this Article are applied.

CHAPTER III

MEMBERS OF THE EUROPEAN PARLIAMENT*Article 8*

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

Article 9

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 10

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

CHAPTER IV

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN COMMUNITIES*Article 11*

Representatives of Member States taking part in the work of the institutions of the Communities, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Communities.

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN COMMUNITIES

Article 12

In the territory of each Member State and whatever their nationality, officials and other servants of the Communities shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Communities and, on the other hand, to the jurisdiction of the Court in disputes between the Communities and their officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

Article 13

Officials and other servants of the Communities shall be liable to a tax for the benefit of the Communities on salaries, wages and emoluments paid to them by the Communities, in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Communities.

Article 14

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Communities, officials and other servants of the Communities who, solely by reason of the performance of their duties in the service of the Communities, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Communities, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Communities. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 15

The Council shall, acting unanimously on a proposal from the Commission, lay down the scheme of social security benefits for officials and other servants of the Communities.

Article 16

The Council shall, acting on a proposal from the Commission and after consulting the other institutions concerned, determine the categories of officials and other servants of the Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN COMMUNITIES*Article 17*

The Member State in whose territory the Communities have their seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Communities.

CHAPTER VII

GENERAL PROVISIONS*Article 18*

Privileges, immunities and facilities shall be accorded to officials and other servants of the Communities solely in the interests of the Communities.

Each institution of the Communities shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Communities.

Article 19

The institutions of the Communities shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

Article 20

Articles 12 to 15 and Article 18 shall apply to Members of the Commission.

Article 21

Articles 12 to 15 and Article 18 shall apply to the Judges, the Advocates-General, the Registrar and the Assistant Rapporteurs of the Court of Justice and to the Members and Registrar of the Court of First Instance, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice relating to immunity from legal proceedings of Judges and Advocates-General.

Article 22

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

Article 23

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

The above provisions shall also apply to the European Monetary Institute. Its dissolution or liquidation shall not give rise to any imposition.

*Appendix to the Annex***Procedure for application in Switzerland of the Protocol on Privileges and Immunities****1. Extension of application to Switzerland**

References in the Protocol on the Privileges and Immunities of the European Communities (hereinafter referred to as 'the Protocol') to 'Member States' shall be understood to apply equally to Switzerland, unless the following provisions determine otherwise.

2. Exemption of the Agency from indirect taxation (including VAT)

Goods and services exported from Switzerland shall not be subject to Swiss value added tax (VAT). In the case of goods and services provided to the Agency in Switzerland for its official use, in accordance with the second paragraph of Article 3 of the Protocol, exemption from VAT shall be granted by way of refund. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or equivalent document totals at least 100 Swiss francs (inclusive of tax).

The VAT refund shall be granted on presentation to the Federal Tax Administration's VAT Main Division of the Swiss forms provided for the purpose. As a rule, refund applications shall be processed within the three months following the date on which they were lodged together with the necessary supporting documents.

3. Procedure for the application of the rules relating to the Agency's staff

As regards the second paragraph of Article 13 of the Protocol, Switzerland shall exempt, according to the principles of its national law, officials and other servants of the Agency within the meaning of Article 2 of Regulation (Euratom, ECSC, EEC) No 549/69 of the Council of 25 March 1969 (OJ L 74, 27.3.1969, p. 1) from federal, cantonal and communal taxes on salaries, wages and emoluments paid to them by the Community and subject to an internal tax for its own benefit.

Switzerland shall not be considered as a Member State within the meaning of point 1 above for the purposes of application of Article 14 of the Protocol.

Officials and other servants of the Agency and members of their families who are members of the social insurance system applicable to officials and other servants of the Community shall not be under any obligation to be members of the Swiss social security system.

The Court of Justice of the European Communities shall have exclusive jurisdiction in any matters concerning relations between the Agency or the Commission and its staff with regard to application of Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 (OJ L 56, 4.3.1968, p. 1) and the other provisions of Community law laying down working conditions.

JOINT DECLARATION BY THE EUROPEAN COMMUNITY AND THE GOVERNMENT OF THE SWISS CONFEDERATION AND THE GOVERNMENT OF THE PRINCIPALITY OF LIECHTENSTEIN CONCERNING THE ARRANGEMENT ON THE MODALITIES OF THE PARTICIPATION BY THE SWISS CONFEDERATION AND THE PRINCIPALITY OF LIECHTENSTEIN IN THE EUROPEAN AGENCY FOR THE MANAGEMENT OF OPERATIONAL COOPERATION AT THE EXTERNAL BORDERS OF THE MEMBER STATES OF THE EUROPEAN UNION

The European Community,

the Government of the Swiss Confederation

and

the Government of the Principality of Liechtenstein,

Having concluded the Arrangement on the modalities of the participation by the Swiss Confederation and the Principality of Liechtenstein in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union in accordance with Article 21(3) of Council Regulation (EC) No 2007/2004,

Hereby jointly declare that:

The voting rights provided for in the Arrangement are justified by the special relations with Switzerland and Liechtenstein flowing from the association of these States with the implementation, application and development of the Schengen *acquis*.

Those voting rights are of an exceptional nature attributable to the specific nature of the Schengen cooperation and the special position of Switzerland and Liechtenstein.

They may therefore not be regarded as a legal or political precedent for any other field of cooperation between the parties to the Arrangement or for the participation of other third countries in other agencies of the Union.

In no circumstances may these voting rights be exercised in respect of decisions of a regulatory or legislative nature.

JOINT DECLARATION BY THE CONTRACTING PARTIES ON THE APPLICATION OF THE PROVISIONS ON THE CIVIL LIABILITY

In case where a rapid border intervention team is deployed within the framework of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, Article 10(4) of Regulation (EC) No 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers shall apply as regards civil liability.

REGULATIONS

COMMISSION REGULATION (EU) No 810/2010

of 15 September 2010

amending Regulation (EU) No 206/2010 laying down lists of third countries, territories or parts thereof authorised for the introduction into the European Union of certain animals and fresh meat and the veterinary certification requirements

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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

Having regard to Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption⁽²⁾, and in particular the introductory phrase of Article 8, the first subparagraph of point (1) of Article 8, point (4) of Article 8, Article 9(2) and Article 9(4)(b) thereof,

Having regard to Council Directive 2004/68/EC of 26 April 2004 laying down animal health rules for the importation into and transit through the Community of certain live ungulate animals, amending Directives 90/426/EEC and 92/65/EEC and repealing Directive 72/462/EEC⁽³⁾, and in particular the first and second subparagraphs of Article 3(1), the first subparagraph of Article 6(1), point (e) of Article 7, Article 8, the first subparagraph of Article 10 and Article 13(1) thereof,

Whereas:

- (1) Commission Regulation (EU) No 206/2010⁽⁴⁾ lays down the veterinary certification requirements for the introduction into the Union of certain consignments of live animals or fresh meat. It also lays down the lists of third countries, territories or parts thereof from which those consignments may be introduced into the Union.
- (2) Regulation (EU) No 206/2010 provides that consignments of fresh meat intended for human consumption are to be imported into the Union only if they come from the third countries, territories or parts

thereof listed in Part 1 of Annex II to that Regulation for which there is a model veterinary certificate corresponding to the consignment concerned listed in that Part. In addition, those consignments must comply with the requirements set out in the appropriate veterinary certificate which must be drawn up in accordance with the models set out in Part 2 of that Annex.

- (3) In addition, Regulation (EU) No 206/2010 provides that consignments of certain species of bees are only to be introduced into the Union from third countries or territories listed in Part 1 of Annex II to that Regulation where the presence of the small hive beetle (*Aethina tumida*) is subject to compulsory notification throughout the whole territory of the third country or territory concerned. However, consignments of bees may be introduced into the Union from a part of a third country or territory listed in that Part 1 which is a geographically and epidemiologically isolated part of the third country or territory and listed in the third column of the table in Section 1 of Part 1 of Annex IV. The State of Hawaii is currently listed in that column.
- (4) Regulation (EU) No 206/2010 provided for a transitional period until 30 June 2010 during which time consignments of live animals and fresh meat intended for human consumption and accompanied by veterinary certificates issued in accordance with the rules in force before the entry into force of that Regulation may continue to be introduced into the Union.
- (5) Due to some transposition errors in the published version of Regulation (EU) No 206/2010 in particular in the model certificates set out in the Annexes to that Regulation it has been republished in the Official Journal⁽⁵⁾. The transitional period provided for in Regulation (EU) No 206/2010 should therefore be extended to take account of the period between the initial publication of that Regulation and the republication of the corrected version.

⁽¹⁾ OJ L 268, 14.9.1992, p. 54.

⁽²⁾ OJ L 18, 23.1.2003, p. 11.

⁽³⁾ OJ L 139, 30.4.2004, p. 321.

⁽⁴⁾ OJ L 73, 20.3.2010, p. 1.

⁽⁵⁾ OJ L 146, 11.6.2010, p. 1.

- (6) Argentina has requested the authorisation to export to the Union de-boned and matured wild deer meat of animals from an EU approved area free of foot and mouth disease with vaccination (AR-1). That third country has also provided sufficient animal health guarantees in support of its request. The model veterinary certificate RUW should therefore be indicated in column 4 of the table in Part 1 of Annex II to Regulation (EU) No 206/2010 for the part of the territory of Argentina indicated as AR-1 in the second column of that Part.
- (7) Considering that provided the EU animal health rules are respected and in particular that the bovine, caprine and ovine animals collected at assembly centres including markets can be guaranteed to be of the same health status by an adequate animal identification and traceability system, then those animals destined for slaughter for production of fresh meat to be exported to the Union could be sourced from one assembly centre and then sent directly to an approved slaughterhouse. The animal identification and traceability system in Namibia has been shown to ensure that animals at such collection centres have the same health status concerning export requirements to the EU and can fulfil the supplementary guarantees (j) as referred to in the appropriate column in Part 1 of Annex II to this Regulation.
- (8) On 5 May 2010, the United States notified the Commission of outbreaks of the small hive beetle in parts of the State of Hawaii. The introduction of consignments of bees from that state could pose a serious threat to bee populations in the Union. Accordingly, the listing of the State of Hawaii in the third column of the table in Section 1 of Part 1 of Annex IV to Regulation (EU) No 206/2010 should be suspended from that date.
- (9) Regulation (EU) No 206/2010 should therefore be amended accordingly.
- (10) It is necessary to provide for a transitional period in order to give Member States and the industry sufficient time to take the necessary measures to comply with the requirements laid down in Regulation (EU) No 206/2010, as amended by this Regulation, without disrupting trade.
- (11) It is necessary for this Regulation to have retroactive effect in order to avoid any unnecessary disruption to trade in view of the very recent publication of the corrigendum affecting in particular the veterinary certificates.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 206/2010 is amended as follows:

(1) Article 19 is replaced by the following wording:

‘For a transitional period those consignments of live animals, except bees coming from the State of Hawaii, and fresh meat intended for human consumption certified before 30 November 2010 in accordance with Decisions 79/542/EEC and 2003/881/EC may continue to be introduced into the Union until 31 May 2011.’

(2) Annex II is amended in accordance with the Annex to this Regulation.

(3) In Annex IV, Part 1, the table in Section 1 is replaced by the following:

‘Country/territory	Code of part of the country/territory	Description of part of the country/territory
US – United States	US-A	The State of Hawaii ⁽¹⁾

⁽¹⁾ Suspended from 5 May 2010.’

Article 2

For a transitional period, consignments of fresh meat intended for human consumption in respect of which the relevant veterinary certificates have been certified before 30 November 2010, in accordance with the models BOV and OVI, as set out in Part 2 of Annex II to Regulation (EU) No 206/2010 before the amendments introduced by Article 1(2) of this Regulation, may continue to be introduced into the Union until 31 May 2011.

Article 3

This Regulation shall enter into force on the third 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, 15 September 2010.

For the Commission

The President

José Manuel BARROSO

ANNEX

Annex II is amended as follows:

(1) Part 1 is replaced by the following:

PART 1

List of third countries, territories and parts thereof ⁽¹⁾

ISO code and name of third country	Code of Territory	Description of third country, territory or part thereof	Veterinary certificate		Specific conditions	Closing date ⁽²⁾	Opening date ⁽³⁾
			Model(s)	SG			
1	2	3	4	5	6	7	8
AL – Albania	AL-0	Whole country	—				
AR – Argentina	AR-0	Whole country	EQU				
	AR-1	The Provinces of: Buenos Aires, Catamarca, Corrientes (except the departments of Berón de Astrada, Capital, Empedrado, General Paz, Itati, Mbucuruyá, San Cosme and San Luís del Palmar) Entre Ríos, La Rioja, Mendoza, Misiones, Part of Neuquén (excluding territory included in AR-4), Part of Río Negro (excluding territory included in AR-4), San Juan, San Luis, Santa Fe, Tucuman, Cordoba, La Pampa, Santiago del Estero, Chaco, Formosa, Jujuy and Salta, excluding the buffer area of 25 Km from the border with Bolivia and Paraguay that extends from the Santa Catalina District in the Province of Jujuy, to the Laishi District in the Province of Formosa	BOV	A	1		18 March 2005
			RUF	A	1		1 December 2007
			RUF	A	1		1 August 2010
	AR-2	Chubut, Santa Cruz and Tierra del Fuego	BOV, OVI, RUW, RUF				1 March 2002
	AR-3	Corrientes: the departments of Berón de Astrada, Capital, Empedrado, General Paz, Itati, Mbucuruyá, San Cosme and San Luís del Palmar	BOV, RUF	A	1		1 December 2007
	AR-4	Part of Río Negro (except: in Avellaneda the zone located north of the Provincial road 7 and east of the Provincial road 250, in Conesa the zone located east of the Provincial road 2, in El Cuy the zone located north of the Provincial road 7 from its intersection with the Provincial road 66 to the border with the Department of Avellaneda, and in San Antonio the zone located east of the Provincial roads 250 and 2)	BOV, OVI, RUW, RUF				1 August 2008

1	2	3	4	5	6	7	8
		Part of Neuquén (except in Confluencia the zone located east of the Provincial road 17, and in Picun Leufú the zone located east of the Provincial road 17)					
AU – Australia	AU-0	Whole country	BOV, OVI, POR, EQU, RUF, RUW, SUF, SUW				
BA – Bosnia and Herzegovina	BA-0	Whole country	—				
BH – Bahrain	BH-0	Whole country	—				
BR – Brazil	BR-0	Whole country	EQU				
	BR-1	State of Minas Gerais State of Espírito Santo; State of Goiás; State of Mato Grosso State of Rio Grande do Sul, State of Mato Grosso do Sul (except for the designated high surveillance zone of 15 Km from the external borders in the municipalities of Porto Murtinho, Caracol, Bela Vista, Antônio João, Ponta Porã, Aral Moreira, Coronel Sapucaia, Paranhos, Sete Quedas, Japorã, and Mundo Novo and the designated high surveillance zone in the municipalities of Corumbá and Ladário).	BOV	A and H	1		1 December 2008
	BR-2	State of Santa Catarina	BOV	A and H	1		31 January 2008
	BR-3	States of Paraná and São Paulo	BOV	A and H	1		1 August 2008
BW – Botswana	BW-0	Whole country	EQU, EQW				
	BW-1	The veterinary disease control zones 3c, 4b, 5, 6, 8, 9 and 18	BOV, OVI, RUF, RUW	F	1		1 December 2007
	BW-2	The veterinary disease control zones 10, 11, 13 and 14	BOV, OVI, RUF, RUW	F	1		7 March 2002
	BW-3	The veterinary disease control zone 12	BOV, OVI, RUF, RUW	F	1	20 October 2008	20 January 2009
BY – Belarus	BY-0	Whole country	—				

1	2	3	4	5	6	7	8
BZ – Belize	BZ-0	Whole country	BOV, EQU				
CA – Canada	CA-0	Whole country	BOV, OVI, POR, EQU, SUF, SUW RUF, RUW,	G			
CH – Switzerland	CH-0	Whole country	*				
CL – Chile	CL-0	Whole country	BOV, OVI, POR, EQU, RUF, RUW, SUF				
CN – China	CN-0	Whole country	—				
CO – Colombia	CO-0	Whole country	EQU				
CR – Costa Rica	CR-0	Whole country	BOV, EQU				
CU – Cuba	CU-0	Whole country	BOV, EQU				
DZ – Algeria	DZ-0	Whole country	—				
ET – Ethiopia	ET-0	Whole country	—				
FK – Falkland Islands	FK-0	Whole country	BOV, OVI, EQU				
GL – Greenland	GL-0	Whole country	BOV, OVI, EQU, RUF, RUW				
GT – Guatemala	GT-0	Whole country	BOV, EQU				
HK – Hong Kong	HK-0	Whole country	—				
HN – Honduras	HN-0	Whole country	BOV, EQU				
HR – Croatia	HR-0	Whole country	BOV, OVI, EQU, RUF, RUW				

1	2	3	4	5	6	7	8
IL – Israel	IL-0	Whole country	—				
IN – India	IN-0	Whole country	—				
IS – Iceland	IS-0	Whole country	BOV, OVI, EQU, RUF, RUW				
KE – Kenya	KE-0	Whole country	—				
MA – Morocco	MA-0	Whole country	EQU				
ME – Montenegro	ME-0	Whole country	BOV, OVI, EQU				
MG – Madagascar	MG-0	Whole country	—				
MK – Former Yugoslav Republic of Macedonia ⁽⁴⁾	MK-0	Whole country	OVI, EQU				
MU – Mauritius	MU-0	Whole country	—				
MX – Mexico	MX-0	Whole country	BOV, EQU				
NA – Namibia	NA-0	Whole country	EQU, EQW				
	NA-1	South of the cordon fences which extend from Palgrave Point in the west to Gam in the east	BOV, OVI, RUF, RUW	F and J	1		
NC – New Caledonia	NC-0	Whole country	BOV, RUF, RUW				
NI – Nicaragua	NI-0	Whole country	—				
NZ – New Zealand	NZ-0	Whole country	BOV, OVI, POR, EQU, RUF, RUW, SUF, SUW				
PA – Panama	PA-0	Whole country	BOV, EQU				
PY – Paraguay	PY-0	Whole country	EQU				
	PY-1	Whole country except for the designated high surveillance zone of 15 Km from the external borders	BOV	A	1		1 August 2008

1	2	3	4	5	6	7	8
RS – Serbia ⁽⁵⁾	RS-0	Whole country	BOV, OVI, EQU				
RU – Russia	RU-0	Whole country	—				
	RU-1	Region of Murmansk, Yamalo-Nenets autonomous area	RUF				
SV – El Salvador	SV-0	Whole country	—				
SZ – Swaziland	SZ-0	Whole country	EQU, EQW				
	SZ-1	Area west of the “red line” fences which extends northwards from the river Usutu to the frontier with South Africa west of Nkalashane	BOV, RUF, RUW	F	1		
	SZ-2	The veterinary foot and mouth disease surveillance and vaccination control areas as gazetted as a Statutory Instrument under legal notice number 51 of 2001	BOV, RUF, RUW	F	1		4 August 2003
TH – Thailand	TH-0	Whole country	—				
TN – Tunisia	TN-0	Whole country	—				
TR – Turkey	TR-0	Whole country	—				
	TR-1	The provinces of Amasya, Ankara, Aydin, Balikesir, Bursa, Cankiri, Corum, Denizli, Izmir, Kastamonu, Kutahya, Manisa, Usak, Yozgat and Kirikkale	EQU				
UA – Ukraine	UA-0	Whole country	—				
US – United States	US-0	Whole country	BOV, OVI, POR, EQU, SUF, SUW, RUF, RUW	G			
UY – Uruguay	UY-0	Whole country	EQU				
			BOV	A	1		1 November 2001
			OVI	A	1		

1	2	3	4	5	6	7	8
ZA – South Africa	ZA-0	Whole country	EQU, EQW				
	ZA-1	The whole country except: — the part of the foot-and-mouth disease control area situated in the veterinary regions of Mpumalanga and Northern provinces, in the district of Ingwavuma of the veterinary region of Natal and in the border area with Botswana east of longitude 28°, and — the district of Camperdown, in the province of KwaZulu-Natal	BOV, OVI, RUF, RUW	F	1		
ZW – Zimbabwe	ZW-0	Whole country	—				

(¹) Without prejudice to specific certification requirements provided for in agreements between the Union and third countries.

(²) Meat from animals slaughtered on or before the date set out in column 7 may be imported into the Union for 90 days from that date. However, consignments carried on vessels on the high seas may be imported into the Union if certified before the date set out in column 7 for 40 days from that date. (Where there is no date set out in column 7, no time restrictions shall apply).

(³) Only meat from animals slaughtered on or after the date set out in column 8 may be imported into the Union. Where there is no date set out in column 8, no time restrictions shall apply.

(⁴) The former Yugoslav Republic of Macedonia; provisional code that does not prejudice in any way the definitive nomenclature for this country, which will be agreed following the conclusion of negotiations currently taking place on this subject in the United Nations.

(⁵) Not including Kosovo which is at present under international administration pursuant to United Nations Security Council Resolution 1244 of 10 June 1999.

* Requirements as in accordance with the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (OJ L 114, 30.4.2002, p. 132).

— No certificates are laid down and fresh meat imports shall be prohibited, except for those species where indicated in the line comprising the entry for the whole country.

"1" Category restrictions:

No offal is authorised for introduction into the Union except for bovine species, diaphragm and masseter muscles.'

(2) Part 2 is amended as follows:

(a) the introductory list is replaced by the following:

PART 2

Models of veterinary certificates

Model(s):

"BOV": Model of veterinary certificate for fresh meat, including minced meat, of domestic bovine animals (including *Bison* and *Bubalus* species and their cross-breeds).

"OVI": Model of veterinary certificate for fresh meat, including minced meat, of domestic ovine animals (*Ovis aries*) and domestic caprine animals (*Capra hircus*).

"POR": Model of veterinary certificate for fresh meat, including minced meat, of domestic porcine animals (*Sus scrofa*).

"EQU": Model of veterinary certificate for fresh meat, excluding minced meat, of domestic solipeds (*Equus caballus*, *Equus asinus* and their cross-breeds).

"RUF": Model of veterinary certificate for fresh meat, excluding offal and minced meat, of farmed non-domestic animals of the order Artiodactyla (excluding bovine animals (including *Bison* and *Bubalus* species and their cross-breeds), *Ovis aries*, *Capra hircus*, Suidae and Tayassuidae), and of the families Rhinocerotidae and Elephantidae.

"RUW": Model of veterinary certificate for fresh meat, excluding offal and minced meat, of wild non-domestic animals of the order Artiodactyla (excluding bovine animals (including *Bison* and *Bubalus* species and their cross-breeds), *Ovis aries*, *Capra hircus*, Suidae and Tayassuidae), and of the families Rhinocerotidae and Elephantidae.

"SUF": Model of veterinary certificate for fresh meat, excluding offal and minced meat, of farmed non-domestic animals belonging to the Suidae, Tayassuidae, or Tapiridae families.

"SUW": Model of veterinary certificate for fresh meat, excluding offal and minced meat, of wild non-domestic animals belonging to the Suidae, Tayassuidae, or Tapiridae families.

"EQW": Model of veterinary certificate for fresh meat, excluding offal and minced meat, of wild solipeds belonging to the subgenus *Hippotigris* (zebra).

SG (Supplementary guarantees)

"A": guarantees regarding the maturation, pH measurement and boning of fresh meat, excluding offal, certified according to the models of veterinary certificates BOV (point II.2.6), OVI (point II.2.6), RUF (point II.2.7) and RUW (point II.2.4).

"C": guarantees regarding the laboratory test for classical swine fever in the carcasses from which fresh meat was obtained, certified according to the model of veterinary certificate SUW (point II.2.3 B).

"D": guarantees regarding swill feed on holding(s) of animals from which fresh meat certified was obtained according to the model of veterinary certificate POR (point II.2.3 d).

"E": guarantees regarding tuberculosis test in the animals from where fresh meat certified was obtained, according to the model of veterinary certificate BOV (point II.2.4 d).

"F": guarantees regarding the maturation and de-boning of fresh meat, excluding offal, certified according to the models of veterinary certificates BOV (point II.2.6), OVI (point II.2.6), RUF (point II.2.6) and RUW (point II.2.7).

"G": guarantees regarding 1, exclusion of offals and spinal cord; and 2, testing and origin of cervid animals in relation to chronic wasting disease as referred to in the models of veterinary certificates RUF (point II.1.7) and RUW (point II.1.8).

"H": supplementary guarantees required for Brazil. Concerning vaccination programmes, as the State of Santa Catarina in Brazil does not vaccinate against foot and mouth disease, the reference to a vaccination programme is not applicable for meat coming from animals originating and slaughtered in that State.

"J": guarantees regarding the movement of bovine, ovine and caprine animals from holdings to the slaughterhouse, which allow them to pass via an assembly centre (including markets) before being transported directly to slaughter.'

(b) the 'Model BOV' is replaced by the following:

'Model BOV'

COUNTRY

Veterinary certificate to EU

Part I: Details of dispatched consignment	I.1. Consignor		I.2. Certificate reference No		I.2.a.			
	Name							
	Address		I.3. Central competent authority					
	Tel.		I.4. Local competent authority					
	I.5. Consignee		I.6.					
	Name							
	Address							
	Postal code							
	Tel.							
	I.7. Country of origin		ISO code	I.8. Region of origin	Code	I.9. Country of destination	ISO code	I.10. Region of destination
I.11. Place of origin				I.12.				
Name		Approval number						
Address								
I.13. Place of loading		I.14. Date of departure						
I.15. Means of transport		I.16. Entry BIP in EU						
Aeroplane ☐		Ship ☐		Railway wagon ☐				
Road vehicle ☐		Other ☐						
Identification		I.17.						
Documentary references								
I.18. Description of commodity				I.19. Commodity code (HS code)				
				I.20. Quantity				
I.21. Temperature of product				I.22. Number of packages				
Ambient ☐				Chilled ☐		Frozen ☐		
I.23. Seal/Container No				I.24. Type of packaging				
I.25. Commodities certified for:								
Human consumption ☐								
I.26.				I.27. For import or admission into EU ☐				
I.28. Identification of the commodities								
Species (scientific name)	Nature of commodity	Treatment type	Approval number of establishments		Number of packages	Net weight		
			Abattoir	Cutting plant	Cold store			

COUNTRY		Model BOV	
Part II: Certification	II. Health information	II.a. Certificate reference number	II.b.
	II.1. Public Health Attestation I, the undersigned official veterinarian declare that I am aware of the relevant requirements of Regulations (EC) No 178/2002, (EC) No 852/2004, (EC) No 853/2004, (EC) No 854/2004 and (EC) No 999/2001 and certify that the meat of domestic bovine animals described in Part I was produced in accordance with those requirements, in particular that: II.1.1. the [meat] [minced meat] ⁽¹⁾ comes from (an) establishment(s) implementing a programme based on the HACCP principles in accordance with Regulation (EC) No 852/2004; II.1.2. the meat has been obtained in compliance with Section I of Annex III to Regulation (EC) No 853/2004; ⁽¹⁾ II.1.3. [the minced meat has been produced in compliance with Section V of Annex III to Regulation (EC) No 853/2004 and frozen to an internal temperature of not more than – 18 °C;] II.1.4. the meat has been found fit for human consumption following ante and post-mortem inspections carried out in accordance with Chapter II of Section I and Chapters I and IX of Section IV of Annex I to Regulation (EC) No 854/2004; II.1.5. ⁽¹⁾ <i>either</i> [the carcass or parts of the carcass have been marked with a health mark in accordance with Chapter III of Section I of Annex I to Regulation (EC) No 854/2004;] ⁽¹⁾ <i>or</i> [the packages of [meat] [minced meat] ⁽¹⁾ have been marked with an identification mark in accordance with Section I of Annex II to Regulation (EC) No 853/2004;] II.1.6. the [meat] [minced meat] ⁽¹⁾ satisfies the relevant criteria set out in Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs; II.1.7. the guarantees covering live animals and products thereof provided by the residue plans submitted in accordance with Directive 96/23/EC, and in particular Article 29 thereof, are fulfilled; II.1.8. the [meat] [minced meat] ⁽¹⁾ has been stored and transported in accordance with the relevant requirements of Sections I and V respectively of Annex III to Regulation (EC) No 853/2004; II.1.9. with regard to bovine spongiform encephalopathy (BSE): ⁽¹⁾ <i>either</i> [II.1.9.1. for imports from a country or a region with a negligible BSE risk and listed as such in Decision 2007/453/EC: (a) the country or region is classified in accordance with Article 5(2) of Regulation (EC) No 999/2001 as a country or region posing a negligible BSE risk; (b) the animals from which the bovine meat or minced meat was derived were born, continuously reared and slaughtered in a country with a negligible BSE risk ⁽¹³⁾; ⁽¹⁾ [(c) if in the country or region there have been BSE indigenous cases: ⁽¹⁾ <i>either</i> [the animals were born after the date from which the ban on the feeding of ruminants with meat-and-bone meal and greaves derived from ruminants had been enforced.] ⁽¹⁾ <i>or</i> [the bovine meat or minced meat does not contain and is not derived from specified risk material as defined in Annex V to Regulation (EC) No 999/2001, or mechanically separated meat obtained from bones of bovine animals.]]] ⁽¹⁾ <i>or</i> [II.1.9.2. for imports from a country or a region with a controlled BSE risk and listed as such in Decision 2007/453/EC: (a) the country or region is classified in accordance with Article 5(2) of Regulation (EC) No 999/2001 as a country or region posing a controlled BSE risk;		

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Model BOV

II.	Health information	II.a. Certificate reference number	II.b.
	(b) the animals from which the bovine meat or minced meat was derived have not been slaughtered after stunning by means of gas injected into the cranial cavity or killed by the same method or slaughtered by laceration after stunning of central nervous tissue by means of an elongated rod-shaped instrument introduced into the cranial cavity; (¹) <i>either</i> [(c) the bovine meat or minced meat does not contain and is not derived from specified risk material as defined in Annex V to Regulation (EC) No 999/2001, or mechanically separated meat obtained from bones of bovine animals.] (¹) <i>or</i> [(c) the carcasses, half carcasses or half carcasses cut into no more than three wholesale cuts, and quarters contain no specified risk material other than the vertebral column, including dorsal root ganglia. The carcasses or wholesale cuts of carcasses of bovine animals containing vertebral column have been identified by a blue stripe on the label referred to in Regulation (EC) No 1760/2000. (³)] (¹) <i>or</i> [II.1.9.3. for imports from a country or a region which has not been categorised in accordance with Article 5(2) of Regulation (EC) No 999/2001 or has been categorised as a country or region with undetermined BSE risk and listed as such in Decision 2007/453/EC: (a) the country or region has not been categorised in accordance with Article 5(2) of Regulation (EC) No 999/2001 or has been categorised as a country or region with undetermined BSE risk; (b) the animals from which the bovine meat or minced meat was derived have not been fed meat-and-bone meal or greaves derived from ruminants; (c) the animals from which the bovine meat or minced meat was derived have not been slaughtered after stunning by means of gas injected into the cranial cavity or killed by the same method or slaughtered by laceration after stunning of central nervous tissue by means of an elongated rod-shaped instrument introduced into the cranial cavity; (¹) <i>either</i> [(d) the bovine meat or minced meat was not derived from: (i) specified risk material as defined in Annex V to Regulation (EC) No 999/2001; (ii) nervous and lymphatic tissues exposed during the deboning process; (iii) mechanically separated meat obtained from bones of bovine animals.] (¹) <i>or</i> [(d) the carcasses, half carcasses or half carcasses cut into no more than three wholesale cuts, and quarters contain no specified risk material other than the vertebral column, including dorsal root ganglia. The carcasses or wholesale cuts of carcasses of bovine animals containing vertebral column have been identified by a blue stripe on the label referred to in Regulation (EC) No 1760/2000. (³)] (⁴) [II.1.10. it fulfils the requirements of Regulation (EC) No 1688/2005 implementing Regulation (EC) No 853/2004 of the European Parliament and of the Council as regards special guarantees concerning Salmonella for consignments to Finland and Sweden of certain meat and eggs;]		
II.2.	Animal Health attestation I, the undersigned official veterinarian, hereby certify, that the fresh meat described in Part I: II.2.1. has been obtained in the territory/ies with code: (²) which, at the date of issuing this certificate: (a) has been free for 12 months from rinderpest, and during the same period no vaccination against this disease has taken place, and (¹) <i>either</i> [(b) has been free for 12 months from foot-and-mouth disease, and during the same period no vaccination against this disease has taken place;] (¹) <i>or</i> [(b) has been considered free from foot-and-mouth disease since (dd/mm/yyyy), without having had cases/outbreaks afterwards, and authorised to export this meat by Commission Regulation (EU) No/....., of (dd/mm/yyyy);]		

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Model BOV

II.	Health information	II.a. Certificate reference number	II.b.
(1) (5) or	[(b) vaccination programmes against foot-and-mouth disease are being officially carried out and controlled in domestic bovine animals;]		
(1) (6) or	[(b) has a systematic vaccination programme against foot and mouth disease and from herds where the efficacy of this vaccination programme is controlled by the competent veterinary authority through a regular serological surveillance indicating adequate antibody levels and which also demonstrates the absence of foot and mouth virus circulation;]		
(1) (6) or	[(b) has been free for 12 months from foot-and-mouth disease, and during the same period no vaccination against this disease has taken place and is controlled by the competent veterinary authority through a regular surveillance demonstrating the absence of foot and mouth infection;]		
II.2.2.	has been obtained from animals that:		
(1) either	[have remained in the territory described under point II.2.1 since birth, or for at least the last three months before slaughter;]		
(1) or	[have been introduced on (dd/mm/yyyy) into the territory described under point II.2.1, from the territory with code (2) that at that date was authorised to import this fresh meat into the Union;]		
(1) or	[have been introduced on (dd/mm/yyyy) into the territory described under point II.2.1, from the EU Member State;].		
II.2.3.	has been obtained from animals coming from holdings in which:		
(a)	None of the animals present therein have been vaccinated against [foot-and-mouth disease or] (7) rinderpest, and		
(1) either	[(b) in these holdings, and in the holdings situated in their vicinity within 10 km, there has been no case/outbreak of foot-and-mouth disease or rinderpest during the previous 30 days;]		
(1) (8) or	[(b) there is no official restriction for animal health reasons and where, in these holdings and in the holdings situated in their vicinity within 25 km, there has been no case/outbreak of foot-and-mouth disease or rinderpest during the previous 60 days, and,		
(c)	they have remained for at least 40 days before direct dispatch to the slaughterhouse;]		
(1) (14) or	[(c) they have remained for at least 40 days before passing through one assembly centre approved by the competent veterinary authority without coming into contact with animals of a different health status prior to subsequently going directly to a slaughterhouse;]		
(1) (9) or	[(b) there is no official restriction for animal health reasons and where, in these holdings and in the holdings situated in their vicinity within 10 km, there has been no case/outbreak of foot-and-mouth disease or rinderpest during the previous 12 months, and		
(c)	they have remained for at least 40 days before direct dispatch to the slaughterhouse;]		
(1) (6)	[(d) animals have not been introduced during the last 3 months from areas not approved by the EU;		
(e)	animals are identified and registered in the national System of Identification and Certification of Origin for bovine animals;		
(f)	the holdings in question are listed as approved holdings, following a favourable competent authorities' inspection and official report, in TRACES (10) and inspections are regularly carried out by the competent authorities to ensure that the relevant requirements provided for in Regulation (EU) No 206/2010 are respected;]		
II.2.4.	has been obtained from animals which:		
(a)	have been transported from their holdings in vehicles, cleaned and disinfected before loading, to an approved slaughterhouse without contact with other animals which did not comply with the conditions referred to in point II.2.1, II.2.2 and II.2.3,		

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Model BOV

II.	Health information	II.a. Certificate reference number	II.b.
	(b) at the slaughterhouse, have passed ante-mortem health inspection during the 24 hours before slaughter and, in particular, have shown no evidence of the diseases referred to in point II.2.1, (c) have been slaughtered on (dd/mm/yyyy) or between (dd/mm/yyyy) and (dd/mm/yyyy) ⁽¹⁾; ⁽¹⁾ ⁽¹²⁾ [(d) have reacted negatively to an official intra-dermal tuberculosis test carried out within 3 months before slaughter;] ⁽¹⁾ ⁽⁶⁾ [(e) at the slaughterhouse have been kept prior to slaughter completely separate from animals the meat of which is not intended for the Union]. II.2.5. has been obtained in an establishment around which, within a radius of 10 km, there has been no case/outbreak of the diseases referred to in point II.2.1 during the previous 30 days or, in the event of a case/outbreak of disease, the preparation of meat for importation to the Union has been authorised only after slaughter of all animals present, removal of all meat, and the total cleaning and disinfection of the establishment under the control of an official veterinarian; II.2.6. ⁽¹⁾ <i>either</i> [has been obtained and prepared without contact with other meats not complying with the conditions required in this certificate.] ⁽¹⁾ ⁽⁸⁾ <i>or</i> [contains [boneless meat] [and] [minced meat] ⁽¹⁾, obtained only from de-boned meat other than offal that was obtained from carcasses in which the main accessible lymphatic glands have been removed, which have been submitted to maturation at a temperature above + 2 °C for at least 24 hours before the bones were removed and in which the pH value of the meat was below 6.0 when tested electronically in the middle of the longissimus-dorsi muscle after maturation and before de-boning, and has been kept strictly separate from meat not conforming to the requirements referred to in this certificate during all stages of its production, de-boning and storage until it has been packed in boxes or cartons for further storage in dedicated areas.] ⁽¹⁾ ⁽⁹⁾ <i>or</i> [contains [boneless meat] [and] [minced meat] ⁽¹⁾, obtained only from de-boned meat other than offal that was obtained from carcasses in which the main accessible lymphatic glands have been removed, which have been submitted to maturation at a temperature above + 2 °C for at least 24 hours before the bones were removed, and has been kept strictly separate from meat not conforming to the requirements referred to in this certificate during all stages of its production, de-boning and storage until it has been packed in boxes or cartons for further storage in dedicated areas.]		
II.3.	Animal welfare attestation I, the undersigned official veterinarian, hereby certify, that the fresh meat described in Part I derives from animals which have been treated in the slaughterhouse before and at the time of slaughter or killing in accordance with the relevant provisions of Union legislation. Notes This certificate is meant for fresh meat, including minced meat, of domestic bovine animals (including <i>Bison</i> and <i>Bubalus</i> species and their cross-breeds). Fresh meat means all animal parts fit for human consumption whether fresh, chilled or frozen. Part I — Box reference I.8: Provide the code of territory as appearing in Part 1 of Annex II to Regulation (EU) No 206/2010. — Box reference I.11: Place of origin: name and address of the dispatch establishment. — Box reference I.15: Registration number (railway wagons or container and lorries), flight number (aircraft) or name (ship) is to be provided. In case of unloading and reloading, the consignor must inform the BIP of entry into the Union. — Box reference I.19: Use the appropriate HS code: 02.01, 02.02, 02.06 or 05.04. In addition, for those territories of origin without the entry "A" or "F" in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010, the HS code 15.02 may also be used when appropriate.		

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Model BOV

II. Health information	II.a. Certificate reference number	II.b.
— Box reference I.20: Indicate total gross weight and total net weight. — Box reference I.23: For containers or boxes, the container number and the seal number (if applicable) must be included. — Box reference I.28: <i>Nature of commodity</i>: Indicate "carcass-whole", "carcass-side", "carcass-quarters", "cuts", "offal" or "minced meat". Minced meat is deboned meat that has been minced into fragments and that must have been prepared exclusively from striated muscle (including the adjoining fatty tissues) except heart muscle. — Box reference I.28: <i>Treatment type</i>: If appropriate, indicate "deboned"; "bone in"; "matured" Part II: (¹) Keep as appropriate. (²) Code of the territory as it appears in Part 1 of Annex II to Regulation (EU) No 206/2010. (³) The number of bovine carcasses or wholesale cuts of carcasses, from which removal of the vertebral column is required as well as the number where removal of the vertebral column is not required must be added to the common veterinary entry document referred to in Article 2 (1) of Regulation (EC) No 136/2004. (⁴) Delete if the consignment is not intended for introduction into Finland or Sweden. (⁵) Only matured de-boned meat fulfilling the supplementary guarantees referred to in footnote (⁶). (⁶) Supplementary guarantees regarding import of matured de-boned meat to be provided when required in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010 with the entry "H". (⁷) Delete when the exporting country carries out vaccination against foot-and-mouth disease with serotypes A, O or C, and this country is allowed to import into the Union matured de-boned meat which fulfils the supplementary guarantees described, in footnote (⁶). (⁸) Supplementary guarantees regarding meats from matured de-boned meat to be provided when required in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010, with the entry "A". (⁹) Supplementary guarantees regarding meats from matured de-boned meat to be provided when required in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010, with the entry "F". The matured de-boned meat shall not be allowed for importation into the Union until 21 days after the date of slaughter of the animals. (¹⁰) The list of approved holdings provided by the competent authority is reviewed on a regular basis and kept up to date by the competent authority. The Commission will ensure that this list of approved holdings is made publicly available for information purposes through its integrated computerised veterinary system (TRACES). (¹¹) Date or dates of slaughter. Imports of this meat shall not be allowed when obtained from animals slaughtered either prior to the date of authorisation for importation into the Union of the third country, territory or part thereof referred to in boxes I.7 and I.8, or during a period where restrictive measures have been adopted by the Union against imports of this meat from this third country, territory or part thereof. (¹²) Supplementary guarantees concerning tuberculosis test, to be provided when required in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010, with the entry "E". Intra-dermal tuberculosis test to be carried out in accordance with the provisions of Annex B to Directive 64/432/EEC. (¹³) List of countries in the Annex to Decision 2007/453/EC. (¹⁴) Alternative guarantee may be provided when allowed for by the entry "J" in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010.		
Official veterinarian Name (in capital letters): Date: Stamp: Qualification and title: Signature:		

(c) The 'Model OVI' is replaced by the following:

'Model OVI'

COUNTRY

Veterinary certificate to EU

Part I: Details of dispatched consignment	I.1. Consignor Name Address Tel.		I.2. Certificate reference No		I.2.a.			
			I.3. Central competent authority					
			I.4. Local competent authority					
	I.5. Consignee Name Address Postal code Tel.		I.6.					
	I.7. Country of origin	ISO code	I.8. Region of origin	Code	I.9. Country of destination	ISO code	I.10. Region of destination	Code
	I.11. Place of origin Name Address Approval number		I.12.					
	I.13. Place of loading		I.14. Date of departure					
	I.15. Means of transport Aeroplane ☐ Ship ☐ Railway wagon ☐ Road vehicle ☐ Other ☐ Identification Documentary references		I.16. Entry BIP in EU					
			I.17.					
	I.18. Description of commodity				I.19. Commodity code (HS code)			
				I.20. Quantity				
I.21. Temperature of product Ambient ☐ Chilled ☐ Frozen ☐				I.22. Number of packages				
I.23. Seal/Container No				I.24. Type of packaging				
I.25. Commodities certified for: Human consumption ☐								
I.26.			I.27. For import or admission into EU ☐					
I.28. Identification of the commodities								
Species (scientific name)	Nature of commodity	Treatment type	Approval number of establishments Abattoir Cutting plant Cold store	Number of packages	Net weight			

COUNTRY

Model OVI

	II. Health information	II.a. Certificate reference number	II.b.
Part II: Certification	II.1. Public Health Attestation		
	I, the undersigned official veterinarian, declare that I am aware of the relevant requirements of Regulations (EC) No 178/2002, (EC) No 852/2004, (EC) No 853/2004, (EC) No 854/2004 and (EC) No 999/2001 and certify that the meat of domestic ovine and caprine animals described in Part I was produced in accordance with those requirements, in particular that: II.1.1. the [meat] [minced meat] ⁽¹⁾ comes from (an) establishment(s) implementing a programme based on the HACCP principles in accordance with Regulation (EC) No 852/2004; ⁽¹⁾ II.1.2. the meat has been obtained in compliance with the conditions set out in Section I of Annex III to Regulation (EC) No 853/2004; ⁽¹⁾ II.1.3. [the minced meat has been produced in compliance with Section V of Annex III to Regulation (EC) No 853/2004 and frozen to an internal temperature of not more than – 18 °C;] II.1.4. the meat has been found fit for human consumption following ante and post-mortem inspections carried out in accordance with Chapter II of Section I and Chapters II and IX of Section IV of Annex I to Regulation (EC) No 854/2004; II.1.5. ⁽¹⁾ <i>either</i> [the carcass or parts of the carcass have been marked with a health mark in accordance with Chapter III of Section I of Annex I to Regulation (EC) No 854/2004;] ⁽¹⁾ <i>or</i> [the packages of [meat] [minced meat] ⁽¹⁾ have been marked with an identification mark in accordance with Section I of Annex II to Regulation (EC) No 853/2004;] II.1.6. the [meat] [minced meat] ⁽¹⁾ satisfies the relevant criteria set out in Regulation (EC) No 2073/2005 on microbiological criteria for foodstuffs; II.1.7. the guarantees covering live animals and products thereof provided by the residue plans submitted in accordance with Directive 96/23/EC, and in particular Article 29 thereof, are fulfilled; II.1.8. the [meat] [minced meat] ⁽¹⁾ has been stored and transported in accordance with the relevant requirements of Sections I and V respectively of Annex III to Regulation (EC) No 853/2004; II.1.9. with regard to bovine spongiform encephalopathy (BSE): ⁽¹⁾ <i>either</i> II.1.9.1. for imports from a country or a region with a negligible BSE risk and listed as such in Decision 2007/453/EC: (a) the country or region is classified in accordance with Article 5(2) of Regulation (EC) No 999/2001 as a country or region posing a negligible BSE risk; (b) the animals from which the meat or minced meat was derived were born, continuously reared and slaughtered in a country with negligible BSE risk; ⁽²⁾ ⁽¹⁾ [(c) if in the country or region there have been BSE indigenous cases: ⁽¹⁾ <i>either</i> [the animals were born after the date from which the ban on the feeding of ruminants with meat-and-bone meal and greaves derived from ruminants had been enforced.]; ⁽¹⁾ <i>or</i> [the meat or minced meat does not contain and is not derived from specified risk material as defined in Annex V to Regulation (EC) No 999/2001, or mechanically separated meat obtained from bones of domestic ovine or caprine animals.];] ⁽¹⁾ <i>or</i> II.1.9.2. for imports from a country or a region with a controlled BSE risk and listed as such in Decision 2007/453/EC: (a) the country or region is classified in accordance with Article 5(2) of Regulation (EC) No 999/2001 as a country or region posing a controlled BSE risk; (b) animals from which the meat or minced meat was derived have not been slaughtered after stunning by means of gas injected into the cranial cavity or killed by the same method or slaughtered by laceration after stunning of central nervous tissue by means of an elongated rod-shaped instrument introduced into the cranial cavity;		

COUNTRY

Model OVI

II.	Health information	II.a. Certificate reference number	II.b.
	(¹) <i>either</i> [(c) the meat or minced meat does not contain and is not derived from specified risk material as defined in Annex V to Regulation (EC) No 999/2001, or mechanically separated meat obtained from bones of domestic ovine or caprine animals.] (¹) <i>or</i> [(c) the carcasses, half carcasses or half carcasses cut into no more than three wholesale cuts, and quarters contain no specified risk material other than the vertebral column, including dorsal root ganglia.]] (¹) <i>or</i> [II.1.9.3. for imports from a country or a region which has not been categorised in accordance with Article 5(2) of Regulation (EC) No 999/2001 or has been categorised as a country or region with undetermined BSE risk and listed as such in Decision 2007/453/EC: (a) the country or region has not been categorised in accordance with Article 5(2) of Regulation (EC) No 999/2001 or has been categorised as a country or region with undetermined BSE risk; (b) the animals from which the meat or minced meat was derived have not been fed meat-and-bone meal or greaves derived from ruminants; (c) the animals from which the meat or minced meat was derived have not been slaughtered after stunning by means of gas injected into the cranial cavity or killed by the same method or slaughtered by laceration after stunning of central nervous tissue by means of an elongated rod-shaped instrument introduced into the cranial cavity; (¹) <i>either</i> [(d) the meat or minced meat was not derived from: (i) specified risk material as defined in Annex V to Regulation (EC) No 999/2001; (ii) nervous and lymphatic tissues exposed during the deboning process; (iii) mechanically separated meat obtained from bones of domestic ovine or caprine animals.] (¹) <i>or</i> [(d) the carcasses, half carcasses or half carcasses cut into no more than three wholesale cuts, and quarters contain no specified risk material other than the vertebral column, including dorsal root ganglia.]]		
II.2.	Animal Health attestation I, the undersigned official veterinarian, hereby certify, that the fresh meat described in Part I: II.2.1. has been obtained in the territory/ies with code: (³) which, at the date of issuing this certificate: (a) has been free for 12 months from rinderpest, and during the same period no vaccination against this disease has taken place, and (¹) <i>either</i> [(b) has been free for 12 months from foot-and-mouth disease, and during the same period no vaccination against this disease has taken place;] (¹) <i>or</i> [(b) has been considered free from foot-and-mouth disease since (dd/mm/yyyy), without having had cases/outbreaks afterwards, and authorised to export this meat by Commission Regulation (EU) No .../....., of (dd/mm/yyyy);] (¹) (⁴) <i>or</i> [(b) vaccination programmes against foot-and-mouth disease are being officially carried out and controlled in domestic bovine animals;] II.2.2. has been obtained from animals that: (¹) <i>either</i> [have remained in the territory described under point II.2.1 since birth, or for at least the last three months before slaughter;] (¹) <i>or</i> [have been introduced on (dd/mm/yyyy) into the territory described under point II.2.1, from the territory with code (³) that at that date was authorised to import this fresh meat into the Union;] (¹) <i>or</i> [have been introduced on (dd/mm/yyyy) into the territory described under point II.2.1, from the EU Member State]		

COUNTRY

Model OVI

II. Health information	II.a. Certificate reference number	II.b.
II.2.3. has been obtained from animals coming from holdings: (a) in which none of the animals present therein have been vaccinated against [foot-and-mouth disease or] ⁽⁵⁾ rinderpest, (b) not subject to prohibition as a result of an outbreak of ovine or caprine brucellosis during the previous six weeks, and ⁽¹⁾ either [(c) in and around which, in an area of 10 km radius, there has been no case/outbreak of foot-and-mouth disease or rinderpest during the previous 30 days;] ⁽¹⁾ ⁽⁴⁾ or [(c) where there is no official restriction for health reasons and in and around which, in area of 50 km radius, there has been no case/outbreak of foot-and-mouth disease or rinderpest during the previous 90 days, and, (d) where they have remained for at least 40 days before direct dispatch to the slaughterhouse;] ⁽¹⁾ ⁽⁸⁾ or [(d) where they have remained for at least 40 days before passing through one assembly centre approved by the competent veterinary authority without coming into contact with animals of a different health status prior to subsequently going directly to a slaughterhouse;] II.2.4. has been obtained from animals which: (a) have been transported from their holdings in vehicles, cleaned and disinfected before loading, to an approved slaughterhouse without contact with other animals which did not comply with the requirements set out in points II.2.1, II.2.2 and II.2.3, (b) at the slaughterhouse, have passed ante-mortem health inspection during the 24 hours before slaughter and, in particular, have shown no evidence of the diseases referred to in point II.2.1, (c) have been slaughtered on (dd/mm/yyyy) or between (dd/mm/yyyy) and (dd/mm/yyyy) ⁽⁶⁾; II.2.5. has been obtained in an establishment around which, within a radius of 10 km, there has been no case/outbreak of the diseases referred to in point II.2.1 during the previous 30 days or, in the event of a case/outbreak of disease, the preparation of meat for importation into the Union has been authorised only after slaughter of all animals present, removal of all meat, and the total cleaning and disinfection of the establishment under the control of an official veterinarian; II.2.6. ⁽¹⁾ either [has been obtained and prepared without contact with other meats not complying with the conditions required in this certificate.] ⁽¹⁾ ⁽⁴⁾ or [contains [boneless meat] [and] [minced meat] ⁽¹⁾, obtained only from de-boned meat other than offal that was obtained from carcasses in which the main accessible lymphatic glands have been removed, which have been submitted to maturation at a temperature above + 2 °C for at least 24 hours before the bones were removed and in which the pH value of the meat was below 6.0 when tested electronically in the middle of the longissimus-dorsi muscle after maturation and before de-boning, and has been kept strictly separate from meat not conforming to the requirements set out in this certificate during all stages of its production, de-boning and storage until it has been packed in boxes or cartons for further storage in dedicated areas.] ⁽¹⁾ ⁽⁷⁾ or [contains [boneless meat] [and] [minced meat] ⁽¹⁾, obtained only from de-boned meat other than offal that was obtained from carcasses in which the main accessible lymphatic glands have been removed, which have been submitted to maturation at a temperature above + 2 °C for at least 24 hours before the bones were removed, and has been kept strictly separate from meat not conforming to the requirements set out in this certificate during all stages of its production, de-boning and storage until it has been packed in boxes or cartons for further storage in dedicated areas.]		
II.3. Animal welfare attestation I, the undersigned official veterinarian, hereby certify, that the fresh meat described in Part I derives from animals which have been treated in the slaughterhouse before and at the time of slaughter or killing in accordance with the relevant provisions of Union legislation.		

COUNTRY

Model OVI

II. Health information	II.a. Certificate reference number	II.b.
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Notes

This certificate is meant for fresh meat, including minced meat, of domestic ovine animals (*Ovis aries*) and caprine animals (*Capra hircus*). Fresh meat means all animal parts fit for human consumption whether fresh, chilled or frozen.

Part I:

- Box reference I.8: Provide the code of territory as appearing in Part 1 of Annex II to Regulation (EU) No 206/2010.
- Box reference I.11: Place of origin: name and address of the dispatch establishment.
- Box reference I.15: Registration number (railway wagons or container and lorries), flight number (aircraft) or name (ship) is to be provided. In case of unloading and reloading, the consignor must inform the BIP of entry into the Union.
- Box reference I.19: Use the appropriate HS code: 02.04, 02.06 or 05.04. In addition, for those territories of origin without the entry "A" or "F" in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010, the HS code 15.02 may also be used when appropriate.
- Box reference I.20: Indicate total gross weight and total net weight.
- Box reference I.23: For containers or boxes, the container number and the seal number (if applicable) should be included.
- Box reference I.28: *Nature of commodity*: Indicate "carcass-whole", "carcass-side", "carcass-quarters", "cuts", "offal" or "minced meat". Minced meat is de-boned meat that has been minced into fragments and that must have been prepared exclusively from striated muscle (including the adjoining fatty tissues) except heart muscle.
- Box reference I.28: *Treatment type*: If appropriate, indicate "de-boned"; "bone in"; "matured" and/or "minced". If frozen, indicate the date of freezing (mm/yy) of the cuts/pieces.

Part II:

- (¹) Keep as appropriate.
- (²) List of countries in the Annex to Decision 2007/453/EC.
- (³) Code of the territory as it appears in Part 1 of Annex II to Regulation (EU) No 206/2010.
- (⁴) Supplementary guarantees regarding meats from matured de-boned meat to be provided when required in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010, with the entry "A".
- (⁵) Delete when the exporting country carries out vaccination against foot-and-mouth disease with serotypes A, O or C, and this country is authorised to import into the Union matured de-boned meat which fulfils the supplementary guarantees described in Note (⁴).
- (⁶) Date or dates of slaughter. Imports of this meat shall not be allowed when obtained from animals slaughtered either prior to the date of authorisation for importation into the Union of the third country, territory or part thereof referred to in boxes I.7 and I.8, or during a period where restrictive measures have been adopted by the Union against imports of this meat from this third country, territory or part thereof.
- (⁷) Supplementary guarantees regarding meats from matured de-boned meat to be provided when required in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010, with the entry "F". The matured de-boned meat shall not be authorised for importation into the Union until 21 days after the date of slaughter of the animals.
- (⁸) Alternative guarantee may be provided when allowed for by the entry "J" in column 5 "SG" of Part 1 of Annex II to Regulation (EU) No 206/2010.

Official veterinarian

Name (in capital letters):	Qualification and title:
Date:	Signature:
Stamp:	

COMMISSION REGULATION (EU) No 811/2010**of 15 September 2010**

making imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China subject to registration in application of Article 24(5) of Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community⁽¹⁾ (the 'basic Regulation') and in particular Articles 16(4) and 24(5) thereof,

After consulting the Advisory Committee,

Whereas:

- (1) The Commission has received a request, pursuant to Article 24(5) of the basic Regulation, to make imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China subject to registration.

A. PRODUCT CONCERNED

- (2) The product concerned by this registration is wireless wide area networking (WWAN) modems with a radio antenna and providing Internet Protocol (IP) data connectivity for computing devices and including Wi-Fi routers comprising a WWAN modem (WWAN/Wi-Fi routers), originating in the People's Republic of China ('the product concerned'), currently falling within CN codes ex 8471 80 00 and ex 8517 62 00.

B. REQUEST

- (3) Having received a complaint from Option NV (hereinafter 'the applicant'), the Commission determined that there is sufficient evidence to justify initiation of a proceeding and therefore, pursuant to Article 10 of the basic Regulation, announced by a notice published in the *Official Journal of the European Union* (the 'Notice of Initiation') the initiation of an anti-subsidy proceeding concerning imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China.
- (4) Concerning standing to lodge a complaint, the applicant is the sole producer of the product concerned in the European Union, representing 100 % of the total Union production.
- (5) As regards the existence of alleged countervailable subsidisation, the complainant has provided the European

Commission with evidence of specific subsidy programmes regarding preferential loans, income tax preferential rates, benefits from establishment in free trade zones, indirect tax and import tariff programmes, grant programmes, preferential rate for government provision of goods and services and preferential policies at the level of local government.

- (6) The applicant also requests that imports of the product concerned are made subject to registration pursuant to Article 24(5) of the basic Regulation so that measures may subsequently be applied against those imports from the date of such registration.

C. GROUNDS FOR THE REGISTRATION

- (7) According to Article 12(1) of the basic Regulation, provisional measures may not be imposed earlier than 60 days from initiation. However, according to Article 16(4) of the basic Regulation, a definitive countervailing duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures, provided that the conditions set out in that paragraph are fulfilled, and imports have been registered in accordance with Article 24(5). According to Article 24(5) of the basic Regulation, the Commission may, after consultation of the Advisory Committee, direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. Imports may be made subject to registration following a request from the Union industry which contains sufficient evidence to justify such action.
- (8) The request contains sufficient evidence to justify registration.
- (9) The alleged subsidies consist, inter alia, of income tax programmes (e.g. income tax exemptions or reductions under the two free/three half programme, income tax reductions for high or new technology industries, income tax credits for domestically owned companies purchasing domestically produced equipment), indirect tax and import tariff programmes (e.g. value-added tax ('VAT') and tariff exemptions on imported equipment), preferential lending schemes (e.g. policy loans including export financing from State-owned commercial banks and government policy banks), grant programmes (e.g. the Development Fund for the Electronics and Information Industry ('IT Fund'), the state key technologies renovation project fund, famous brands

⁽¹⁾ OJ L 188, 18.7.2009, p. 93.

awards), government provision of goods and services for less than adequate numeration (e.g. provision of land use rights) as well as of local government preferential policies, including benefits in special zones and industrial parks (e.g. preferential policies in Shenzhen, Shanghai, Beijing, Xian).

- (10) It is alleged that the above schemes are subsidies since they involve a financial contribution from the Government of the People's Republic of China or other regional Governments (including public bodies) and confer a benefit to the recipients, i.e. to the exporting producers of the product under investigation. They are alleged to be contingent upon export performance and/or upon the use of domestic over imported goods and/or limited to certain enterprises or groups of enterprises and/or products and/or regions, and therefore specific and countervailable.
- (11) The request provides sufficient evidence of critical circumstances where for the subsidised product in question injury which is difficult to repair is caused by massive imports benefiting from countervailable subsidies in a relatively short period of time. Evidence of such circumstances include the rapid nature of the deterioration of the situation of the Union industry, the fact that a single producer exists in the Union and the significant amount of R & D expenses that must be undertaken to generate the product concerned. Against this background, the complainant has provided evidence that imports of the product under investigation from the country concerned have increased significantly overall in absolute terms and in terms of market share. As regards the injury caused by these massive imports, the evidence provided by the complainant shows that the volume and the prices of the imported product under investigation have, among other consequences, had a negative impact on the quantities sold, the level of the prices charged and the market share held by the Union industry, resulting in substantial adverse effects on the overall performance, the financial situation and the employment situation of the Union industry. It follows that the Commission has at its disposal sufficient evidence that, in order to preclude the recurrence of such injury, it may be necessary to assess countervailing duties retroactively.

- (12) Accordingly, the conditions for registration in this case are met.

D. PROCEDURE

- (13) In the light of the above, the Commission has concluded that the applicant's request contains sufficient evidence to make imports of the product concerned subject to registration, in accordance with Article 24(5) of the basic Regulation.

- (14) All interested parties are invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

E. REGISTRATION

- (15) Pursuant to Article 24(5) of the basic Regulation, imports of the product concerned ⁽¹⁾ should be made subject to registration in order to ensure that, should the investigation result in findings leading to the imposition of countervailing duties, those duties, can, if the necessary conditions are fulfilled, be levied retroactively in accordance with applicable legal provisions.
- (16) Any future liability would emanate from the findings of the anti-subsidy investigation. It is not possible to give an estimated amount of possible future liability since this will depend on the amount of countervailable subsidies found to exist and the manner in which they would need to be allocated to the product under investigation.

F. PROCESSING OF PERSONAL DATA

- (17) Any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 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 ⁽²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

1. The Customs authorities are hereby directed, pursuant to Article 24(5) of Regulation (EC) No 597/2009, to take the appropriate steps to register the imports into the Union of wireless wide area networking (WWAN) modems with a radio antenna and providing Internet Protocol (IP) data connectivity for computing devices and including Wi-Fi routers comprising a WWAN modem (WWAN/Wi-Fi routers) originating in the People's Republic of China, currently falling within CN codes ex 8471 80 00 and ex 8517 62 00 (TARIC codes 8471 80 00 10, 8517 62 00 11 and 8517 62 00 91). Registration shall expire nine months following the date of entry into force of this Regulation

⁽¹⁾ For information purposes, please note that the Commission Regulation (EU) No 570/2010, OJ L 163, 30.6.2010, p. 34, already directed the customs authorities to take the appropriate steps to register imports of the product concerned from the People's Republic of China. This action was taken in respect of the request for registration made in the context of the complaint for an anti-dumping proceeding (for further details, please refer to the Notice of initiation of an anti-dumping proceeding concerning imports of wireless wide area networking (WWAN) modems originating in the People's Republic of China, (OJ C 171, 30.6.2010, p. 9).

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

2. All interested parties are invited to make their views known in writing, to provide supporting evidence or to request to be heard within 20 days from the date of publication of this Regulation.

Article 2

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

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

Done at Brussels, 15 September 2010.

For the Commission
The President
José Manuel BARROSO

COMMISSION REGULATION (EU) No 812/2010

of 15 September 2010

imposing a provisional anti-dumping duty on imports of certain continuous filament glass fibre products originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

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

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE**1. Initiation**

- (1) On 17 December 2009, the Commission announced, by a notice published in the *Official Journal of the European Union* ⁽²⁾, the initiation of an anti-dumping proceeding with regard to imports of certain continuous filament glass fibre products originating in the People's Republic of China (‘PRC’ or the ‘country concerned’).
- (2) The proceeding was initiated as a result of a complaint lodged on 3 November 2009 by APFE - European Glass Fiber Producers Association (‘the complainant’) on behalf of producers representing a major proportion, in this case more than 50 %, of the total Union production of certain continuous filament glass fibre products. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. Parties concerned by the proceeding

- (3) The Commission officially advised the complainant, other known Union producers, the exporting producers and the representatives of the PRC, importers, suppliers and users known to be concerned, as well as their associations, of the initiation of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

- (4) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

- (5) In view of the apparent high number of exporting producers, importers and Union producers, sampling was envisaged in the notice of initiation for the determination of dumping and injury, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all exporting producers, importers and Union producers were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the investigation period (1 October 2008 – 30 September 2009).

- (6) Eight Chinese exporting producers or groups of exporting producers and seven Union producers or groups of producers provided the requested information and agreed to be included in the sample. After examination of the information submitted, and given the high number of exporting producers and Union producers which indicated their willingness to cooperate, it was decided that sampling was necessary with regard to these producers (see recitals (12) and (13) below).

- (7) With regard to unrelated importers, at the sampling stage of the investigation, only three importers provided the requested information within the deadlines set out in the notice of initiation. It was therefore decided not to apply sampling and to send questionnaires to all importers that had come forward.

- (8) In order to allow the sampled exporting producers in the PRC to submit a claim for market economy treatment (‘MET’) or individual treatment (‘IT’), if they so wished, the Commission sent claim forms to the sampled exporting producers. All sampled (groups of) companies requested MET pursuant to Article 2(7) of the basic Regulation or IT should the investigation establish that they did not meet the conditions for MET.

- (9) The Commission officially disclosed the results of the MET findings to the exporting producers concerned in the PRC, the authorities of the PRC and the complainant. They were also given an opportunity to make their views known in writing and to request a hearing if there were particular reasons to be heard.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 307, 17.12.2009, p. 39.

- (10) The Commission sent questionnaires to the sampled exporting producers, sampled Union producers, to importers, and to all known users and user associations. Full questionnaire replies were received from the sampled exporting producers in the PRC, from all sampled Union producers, two importers and 13 users.
- (11) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury or threat of injury and Union interest. Verification visits were carried out at the premises of the following companies.

(a) *Exporting producers in the PRC*

- Chongqing Polycomp International Corporation ('CPIIC')
- Jushi Group (Jushi Group Co., Ltd.; Jushi Group Chengdu Co., Ltd.; Jushi Group Jiujiang Co. Ltd.; Jushi P-D Interglas Co. Ltd.; China National Building Materials & Equipment Import and Export Corporation; CNBM International Corporation; Tongxiang Leishi Mineral Powder Co., Ltd.; Tongxiang Juzhen Mining Co., Ltd.; Tongxiang Jinshi Precious Metal Equipment Co., Ltd.; Zhejiang Songyang Mingshi Mining Co., Ltd. and Zhenshi Group Zhejiang Yushi Int Logistics), and
- New Changhai Group (Changzhou New Changhai Fiberglass Co., Ltd. and Jiangsu Changhai Composite Materials Holding Co., Ltd.)

(b) *Union producers*

- Johns Manville Slovakia, Trnava, Slovakia
- European Owens Corning Fiberglas, Brussels, Belgium
- Owens Corning France, Chambéry, France
- PPG Industries BV, Hoogezand, The Netherlands

(c) *Union users*

- Sabic Europe BV, Sittard, The Netherlands and Genk, Belgium
- Sabic Innovative Plastics BV, Bergen op Zoom, The Netherlands

(d) *Producer in the analogue country*

- Cam Elyaf Sanayii A.Ş, Turkey.

3. Sampling

- (12) Out of the eight Chinese exporting producers or groups of exporting producers which came forward, the Commission selected, in accordance with Article 17 of the basic Regulation, a sample based on the largest representative volume of exports which could reasonably be investigated within the time available. The sample selected consists of three (groups of related) companies, representing over 70 % of the export volume of the co-

operating parties from the PRC to the EU. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection.

- (13) With regard to Union producers, seven producers provided the requested information and agreed to be included in the sample. On the basis of the information received from these cooperating Union producers, the Commission selected a sample of the three biggest in terms of sales and production (groups of) Union producers representing 64 % of the sales by all cooperating Union producers.

4. Investigation period

- (14) The investigation of dumping and injury covered the period from 1 October 2008 to 30 September 2009 ('investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 2006 to the end of the investigation period ('period considered').

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (15) The product concerned as described in the Notice of initiation is chopped glass fibre strands, of a length of not more than 50 mm; glass fibre rovings; slivers and yarns of glass fibre filaments; and mats made of glass fibre filaments excluding mats of glass wool and currently falling within CN codes 7019 11 00, 7019 12 00, 7019 19 10 and ex 7019 31 00 ('the product concerned').
- (16) The product concerned is the raw material most often used to reinforce thermoplastic and thermoset resins in the composites industry. The resulting composite materials (glass fibre reinforced plastics) are used in a large number of industries: automotive industry, electric/electronics, wind mill blades, building/construction, tanks/pipes, consumer goods, aerospace/military, etc.
- (17) There are four basic types of continuous filament glass fibre products covered by this proceeding – i.e. chopped strands, rovings, mats (other than of glass wool) and yarns. The investigation has shown that, despite differences in appearance and possible differences in final applications of various types, almost all the different types of the product concerned share the same basic physical, chemical and technical characteristics and are basically used for the same purposes. It was however found that slivers do not share the same basic chemical, physical and technical characteristics since they are not continuous filament glass fibres, but discontinuous strands of irregular length. The investigation also showed that certain very specific types of rovings and certain very specific types of yarns that are currently covered by CN Codes 7019 12 00 and 7019 19 10 respectively should be excluded since these types are specially treated by coating and impregnating and have a loss on ignition of more than 3 %, giving them different physical and chemical characteristics.

- (18) Several downstream users of yarns have claimed that the latter should be excluded completely from the product scope of the proceeding, given the almost non-existing production base in the Union as well as lack of substitutability between yarns and other product types.
- (19) However, the investigation has shown that at least one way demand substitutability exists (i.e. the yarn can be used in a number of applications instead of other types even if – given a relatively higher price of yarns - this would not always be an economically viable option) and the limited production base of a certain product type cannot per se be a reason for excluding such type from the product scope, as long as it shares the same basic physical, chemical and technical characteristics and uses with other types. Given that continuous glass fibre filament yarns have the same essential characteristics as other continuous glass fibre filament products and they are interchangeable to a certain extent, it was provisionally concluded that there were no grounds to exclude yarns from the product definition. It is however noted that special attention will be given to the further assessment of this claim.

2. Like product

- (20) The product concerned and the continuous glass fibre filament products produced and sold on the domestic market of the PRC, and on the domestic market of Turkey, which served provisionally as an analogue country, as well as the continuous glass fibre filament products produced and sold in the Union by the Union industry were found to have the same basic physical, chemical and technical characteristics and uses. Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy treatment ('MET')

- (21) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.
- (22) Briefly, and for ease of reference only, these criteria are set out in summarised form below:
1. business decisions and costs are made in response to market conditions and without significant State interference;
 2. accounting records are independently audited, in line with international accounting standards and applied for all purposes;
 3. there are no significant distortions carried over from the former non-market economy system;

4. legal certainty and stability is provided by bankruptcy and property laws;

5. currency exchanges are carried out at the market rate.

- (23) In the present investigation, all three sampled exporting producers or groups requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines:

— Chongqing Polycomp International Corporation ('CPIC')

— Jushi Group, and

— New Changhai Group.

- (24) For all the above mentioned sampled exporting producers or groups, the Commission sought all information deemed necessary and verified the information submitted in the MET claim forms and all other information deemed necessary at the premises of the companies in question.

- (25) The investigation established that two sampled exporting producers/groups in the PRC did not meet the requirements of the criteria set forth in Article 2(7)(c) of the basic Regulation to be granted MET.

- (26) In particular, one exporting producer/group could not demonstrate that its business decisions were sufficiently free from State interference. The majority of the directors on its Board of Directors were appointed by a majority State owned company. Consequently the State could successfully stop any decision from being taken. It is thus clear that the State plays a major role in the decision making process of the company. In addition, the company could not demonstrate that it has a clear set of accounting records that is independently audited and in line with international accounting standards as the taxable income of the company was not correctly disclosed in the financial statements.

- (27) The other sampled exporting producer/group also could not demonstrate that its business decisions were sufficiently free from State interference. Two traders of the group are State owned enterprises. The State can also significantly interfere in the decision making of one exporting producer of the group due to the implicit veto power via the director representing the State owned parent company. This producer is in turn the mother company and major shareholder of two other exporting producers in the group and thus the State can also significantly interfere in their decision making. Moreover, three exporting producers from the group could not show that they fulfil criterion 2 as in the case of two of them the tax preferential treatment was not mentioned in the financial statements while as for the third one, the audit did not appear to be independent. In addition, five companies in the group failed to meet criterion 3 (mainly due to non-market oriented prices for the land use rights).

(28) One sampled exporting producer, consisting of a group of two related companies, demonstrated that they fulfilled all the criteria of Article 2(7)(c) and could be granted MET.

(29) Following disclosure of the MET findings, comments were received from the Union industry and two sampled exporting producers/groups, which were proposed not to be granted MET. However, none of the comments received was of a nature as to change the findings in this regard.

2. Individual treatment ('IT')

(30) Pursuant to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that Article, except in those cases where companies are able to demonstrate that they meet all criteria set out in Article 9(5) of the basic Regulation. Briefly, and for ease of reference only, these criteria are set out below:

— in the case of wholly or partly foreign owned firms or joint ventures, exporters are free to repatriate capital and profits;

— export prices and quantities, and conditions and terms of sale are freely determined;

— the majority of the shares belong to private persons. State officials appearing on the Boards of Directors or holding key management positions shall either be in minority or it must be demonstrated that the company is nonetheless sufficiently independent from State interference;

— exchange rate conversions are carried out at the market rate; and

— State interference is not such as to permit circumvention of measures if individual exporters are given different rates of duty.

(31) The two above mentioned sampled companies/group of companies, which were denied MET, also claimed IT in the event that they would not be granted MET.

(32) On the basis of the information available, it was found that both companies/group of companies concerned failed to demonstrate that they cumulatively met all the requirements for IT as set forth in Article 9(5) of the basic Regulation. Namely, it was established that the companies failed to meet the criterion stipulated in Article 9(5)(c) of the basic Regulation that the majority of the shares belong to private persons or are sufficiently independent from the State, since as explained in recitals (26) and (27), all companies were found to be ultimately

majority State owned or controlled. Also, as mentioned above, it was found that both these (groups of) companies failed to demonstrate that they fulfil the criterion set forth in Article 9(5)(e), namely that their decision making is free from significant State interference permitting circumvention of measures if the companies were given different rates of duty. Consequently, their claims for IT had to be rejected.

(33) It was therefore concluded that IT should not be granted to any of the sampled exporting producers/groups, which were denied MET.

3. Normal value

3.1. Determination of the normal value for the exporting producer/group granted MET

(34) In accordance with Article 2(2) of the basic Regulation, the Commission first established for that exporting producer, whether its total domestic sales of continuous fibre glass products were representative, i.e. whether the total volume of such sales represented at least 5 % of its total volume of export sales of the product concerned to the Union. The investigation established that the domestic sales of the like product were representative.

(35) The Commission subsequently identified those product types sold domestically by the companies having overall representative domestic sales that were identical or closely resembling with the types sold for export to the Union.

(36) For each type sold by the exporting producer on their domestic market and found to be comparable with the type of continuous fibre glass products sold for export to the Union, it was established whether domestic sales were sufficiently representative for the purposes of Article 2(2) of the basic Regulation. Domestic sales of a particular product type were considered sufficiently representative when the volume of that product type sold on the domestic market to independent customers during the IP represented around 5 % of the total volume of the comparable product type sold for export to the Union. The investigation established that for all but four product types there were representative domestic sales.

(37) The Commission subsequently examined whether each type of the product concerned sold domestically in representative quantities could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing for each product type the proportion of profitable sales to independent customers on the domestic market during the investigation period.

- (38) Where the sales volume of a product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of that type, and where the weighted average sales price was equal to or higher than the unit cost, normal value, by product type, was calculated as the weighted average of all domestic sales prices of the type in question.
- (39) Where the volume of profitable sales of a product type represented 80 %, or less of the total sales volume of that product type, or where the weighted average price of that type was below the unit costs, normal value was based on the actual domestic price, which was calculated as the weighted average price of only the profitable domestic sales of the type in question.
- (40) Where the product types were all sold at a loss, it was considered that they were not sold in the ordinary course of trade.
- (41) The investigation established that the profitable sales of all but one comparable product type were more than 80 % of total domestic sales and, thus, all domestic sales were used in calculating the average price for normal value. For one product type only the profitable sales were used. For sales of the four product types which were not sold in representative quantities on the domestic market, the Commission used for normal value representative domestic prices of closely resembling types, duly adjusted.
- 3.2. Determination of normal value for exporting producers/groups not granted MET
- (a) *Analogue country*
- (42) In accordance with Article 2(7) of the basic Regulation, normal value for companies to which MET could not be granted was established on the basis of the prices or constructed value in an analogue country.
- (43) In the notice of initiation, the Commission indicated its intention to use Turkey as an appropriate analogue country for the purpose of establishing normal value for the PRC and invited interested parties to comment on this.
- (44) Two interested parties came forward and stated that Turkey would not be an appropriate analogue country, without however substantiating this further. Another interested party commented on the choice of analogue country and suggested that India should be used instead as India would be at a comparable level of development as the PRC, the markets would be comparable as in both markets the wind power applications would be very important and comparable types would be produced in a similar manner. Moreover, the Indian market was described as open market with significant imports. Lastly, it was mentioned that access to raw materials would be comparable in both countries.
- (45) The Commission sought the co-operation of the like product producers in Turkey, Canada, USA, the Republic of Korea and India. However, only the sole Turkish producer expressed its willingness to co-operate and provided a questionnaire reply.
- (46) It is recognised that Turkey is a representative analogue country in terms of domestic sales volume. However, the normal value for one type of the like product which is not produced in Turkey would need to be constructed. It is also noted that the ongoing Turkish anti-dumping investigation for imports of continuous glass fibre products points to possible price depression on the domestic Turkish market. However, given that Turkey was the only country that agreed to co-operate in this investigation, it is provisionally concluded that Turkey should be used as an analogue country.
- (b) *Determination of normal value*
- (47) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers not granted MET was established on the basis of the verified information received from the producer in the analogue country, in accordance with the general methodology set out above for the group of companies granted MET. Where product types in the domestic market of the analogue country were all sold at a loss or where no resembling types were sold, the normal value was constructed pursuant to Article 2(3) and 2(6) of the basic Regulation.
4. **Export price**
- (48) In the majority of cases the product concerned was exported to independent customers in the Union, and therefore, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.
- (49) In the case of few export sales of one exporting producer to its related companies in the Union, it was established that they were for captive use and consequently were not used in the provisional dumping calculation.
5. **Comparison**
- (50) The normal value and export prices were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Appropriate adjustments were granted in all cases where they were found to be reasonable, accurate and supported by verified evidence. An adjustment was granted for indirect taxes, ocean freight and insurance, freight in the exporting country, level of trade (for differences in distribution channel), warranty expenses, credit costs and bank charges.

6. Dumping margins

- (51) The provisional dumping margins were expressed as a percentage of the CIF Union frontier price, duty unpaid.
- (52) For the co-operating group of exporting producers which was granted MET, an individual dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price, in accordance with Article 2(11) and (12) of the basic Regulation.
- (53) The dumping margin for sampled companies not granted MET or IT and for the non-sampled co-operating companies was calculated as an average of the three sampled companies/group of companies.
- (54) Given the high level of co-operation in the investigation, the co-operating companies representing around 100 % of all imports from the PRC during the IP, for any non-cooperating companies, the country wide margin was established using the highest of the margins found for the sampled (groups of) companies.
- (55) On this basis, the provisional levels of dumping are as follows:

Company	Provisional dumping margin
New Changhai Group	8,5 %
Other cooperating companies	43,6 %
Residual	43,6 %

D. INJURY

1. Union production and Union industry

- (56) During the IP, the like product was manufactured by 11 producers in the Union. Seven of these 11 producers cooperated with the investigation. These seven producers were all members of the complainant and they were found to account for a major proportion, in this case more than 90 %, of the total Union production of the like product. Of the remaining four Union producers one was also a complainant, two have actively supported the complaint whereas the fourth has neither supported nor opposed it. The 11 producers therefore constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation and will be hereafter referred to as the 'Union industry'.

- (57) As indicated under recital (13) above, a sample of three producers was selected, representing ca. 64 % of the total Union production. As two of these producers were groups of related companies, with several producing entities in the Union, the sample was constituted by nine individual companies in total.
- (58) Some interested parties alleged that the sampled Union producers should not be considered as Union industry given that all three of them had related Chinese producers manufacturing the product concerned. The investigation confirmed that indeed two of the three sampled Union producers had related Chinese producer companies. However, it was found that, despite the relationship, these two sampled Union producers did not behave in any way to render the findings of the investigation unreliable. The volumes that these Union producers imported from their related companies in the PRC are limited (less than 4 % of imports from the PRC). In addition, these imports can be considered as negligible as compared to the total production of the Union producers concerned, which should by no means be viewed as importers as they are clearly genuine glass fibre producers. Finally, the injury indicators relating to the Union producers concerned were not affected by these limited imports. In view of the above the Commission considered that there were no grounds to exclude any of the sampled Union producers from the definition of Union industry within the meaning of Article 4(1) of the basic Regulation.

2. Union consumption

- (59) Union consumption was established on the basis of the sales volumes of the Union industry on the Union market and the import volumes data for the Union market obtained from Eurostat.
- (60) Union consumption dropped strongly by 24 % between 2006 and the IP. The consumption had however slightly increased in 2007 and first half of 2008.

Table 1

Union consumption				
	2006	2007	2008	IP
Units (tonnes)	982 831	1 043 611	1 035 795	748 045
Indexed	100	106	105	76

3. Imports from the country concerned

3.1. Volume of dumped imports

- (61) The volume of imports from the PRC of the product concerned on the Union market has been significantly increasing over the period considered. Overall, during the period considered, imports from the PRC increased by more than 50 %. In particular, between 2006 and 2008 imports from the PRC have more than doubled. They decreased in the IP as compared to 2008, but the rate of this decrease (25 %) was lower than that of the decline in consumption (28 %).

Table 2

Imports from the PRC (volumes)				
	2006	2007	2008	IP
Units (tonnes)	77 283	122 190	155 875	116 413
<i>Indexed</i>	100	158	202	151

3.2. Market share of dumped imports

- (62) The market share of dumped imports from the PRC has continuously increased over the period considered. In the IP, Chinese imports held a market share of 15,6 %, which is almost the double of their market share in 2006.

Table 3

Imports from the PRC (market share)				
	2006	2007	2008	IP
Market share (%)	7,9 %	11,7 %	15,0 %	15,6 %
<i>Indexed</i>	100	149	191	198

3.3. Prices

(a) Price evolution

- (63) The table below shows the average price of dumped imports from the PRC, at the European border duty unpaid, as reported by Eurostat. The average price of imports from the PRC remained substantially stable during the period considered. This could be observed despite a significant worldwide increase of raw material prices used for manufacturing continuous filament glass fibres during the period considered (as also shown in Table 18).

Table 4

Imports from the PRC (prices)				
	2006	2007	2008	IP
Average price/tonne (EUR)	930	936	970	943
<i>Indexed</i>	100	101	104	101

(b) Price undercutting

- (64) A type-to-type price comparison was made between the selling prices of the Chinese exporting producers and the sampled Union producers' selling prices in the Union. To this end, the sampled Union producers' prices to unrelated customers have been compared with the prices of sampled exporting producers of the country concerned. Adjustments were applied where necessary to take account of differences in the level of trade and post-importation costs.
- (65) The comparison showed that, during the IP, imports of the product concerned originating in the PRC were sold in the Union at prices which undercut the Union industry prices, when expressed as a percentage of the latter, by 23 % to 39 %.

4. Economic situation of the Union industry

4.1. Preliminary remarks

- (66) Pursuant to Article 3(5) of the basic Regulation, the Commission examined all relevant economic factors and indicators having a bearing on the state of the Union industry. The data presented below relate to the whole Union industry for sales and market shares, and to the sampled producers for all the remaining indicators.

4.2. Production

- (67) The Union production volumes remained relatively stable from 2006 to 2008, but they fell sharply during the IP:

Table 5

Union industry - production				
<i>sampled producers</i>	2006	2007	2008	IP
Units (tonnes)	495 942	508 837	502 729	312 824
<i>Indexed</i>	100	103	101	63

4.3. Production capacity and capacity utilisation

- (68) The production capacity of the Union industry developed as follows:

Table 6

Union industry - production capacity				
<i>sampled producers</i>	2006	2007	2008	IP
Capacity (tonnes)	575 900	573 600	585 350	510 700
<i>Indexed</i>	100	100	102	89
Capacity utilisation (%)	86 %	89 %	86 %	61 %
<i>Indexed</i>	100	103	100	71

- (69) During the IP, production capacity was reduced. Indeed, in view of the price erosion and loss of market share caused by the dumped imports from the PRC, several production lines were dismantled, temporarily closed, or curtailed. In spite of this decrease in production capacity, the capacity utilisation rate went down from 86 % to 61 %, i.e. by 29 %.

4.4. Stocks

- (70) The table below shows that the stocks first decreased in 2007, when consumption was peaking, but they then increased strongly in 2008 in view of the sudden fall in demand in the fourth quarter of that year. During the IP, the stock levels returned to more normal levels.

Table 7

Union industry - stocks				
<i>sampled producers</i>	2006	2007	2008	IP
Units (tonnes)	88 968	73 018	123 910	82 160
<i>Indexed</i>	100	82	139	92

4.5. Sales volumes (total Union industry)

- (71) The sales volume of all Union producers on the EU market, including the sales for captive use, developed as follows:

Table 8

Union industry - EU sales (volumes)				
<i>all EU producers</i>	2006	2007	2008	IP
Units (tonnes)	737 818	743 784	706 746	520 064
<i>Indexed</i>	100	101	96	70

- (72) The sales volumes of the Union industry as a whole went down by 30 %. In 2007, while Union consumption grew by 6 % (as shown in Table 1 above), the sales volume of the product concerned by the Union industry on the Union market increased by only 1 %. This means that the Union industry could not benefit from the increased consumption in that period. Subsequently, in 2008 and the IP, the sales volume of the Union industry decreased strongly.

4.6. Market share (total Union industry)

- (73) The market share of the Union industry decreased strongly in 2007 and 2008 after which there was a slight recovery in the IP. However, overall, the Union industry lost 5,6 percentage points in market share during the period considered, whereby as shown in Table 3 above, the market share of dumped imports from the PRC has almost doubled over the period considered.

Table 9

Union industry - EU market share				
<i>all EU producers</i>	2006	2007	2008	IP
EU market share (%)	75,1 %	71,3 %	68,2 %	69,5 %
<i>Indexed</i>	100	95	91	93

4.7. Sales prices

- (74) As concerns average sales prices, the table below shows that the Union industry has not been able to increase sales prices to unrelated customers during the period considered. On the contrary, average sales prices have decreased by 2 % which is the more remarkable in the context of increasing raw material prices. In fact, the Union industry did not have the possibility to reflect in the selling prices the increase in raw material costs, due to the downward pressure on price levels in the Union market exerted by the dumped imports from the PRC.

Table 10

Union industry - EU sales (average prices)				
<i>sampled producers</i>	2006	2007	2008	IP
EUR/tonne	1 179	1 166	1 192	1 159
<i>Indexed</i>	100	99	101	98

4.8. Employment

- (75) The employment level of the Union producers shows that the Union industry has rationalized production throughout the period considered, with the objective of reducing manufacturing costs and counterbalancing the increase in raw material costs. Indeed, the number of employees decreased by 20 percentage points over the whole period, with a decrease of 15 percentage points concentrated in the period between 2007 and the IP.

Table 11

Union industry - employment				
<i>sampled producers</i>	2006	2007	2008	IP
Number of employees	4 114	3 890	3 705	3 302
<i>Indexed</i>	100	95	90	80

4.9. Productivity

- (76) As a result of the efforts of the Union industry described in the previous recital, the productivity of the Union producers' workforce increased significantly in 2007 and 2008. This positive development reversed during the IP, resulting in an overall loss of productivity by 21 % over the period considered. This reverse in productivity was due partly to the collapse in demand and partly to the dumped imports from the PRC strongly undercutting the prices of the Union industry, which resulted in a substantial drop in production and thus an increase in employment per unit of glass fibre produced.

Table 12

Union industry - productivity				
<i>sampled producers</i>	2006	2007	2008	IP
tonnes/employee	121	131	136	95
<i>Indexed</i>	100	108	113	79

4.10. Wages

- (77) During the period considered, the Union industry has managed to control the development of labour costs. Indeed, the table below shows that the average yearly wages slightly increased in 2007 and 2008, but they decreased in the IP. Over the whole period, unit labour costs went down by 3 %. This decrease would have been more explicit, however, had the amounts of severance payments been excluded from the above trend.

Table 13

Union industry - labour costs				
<i>sampled producers</i>	2006	2007	2008	IP
yearly wages (EUR)	42 649	43 257	43 991	41 394
<i>Indexed</i>	100	101	103	97

4.11. Profitability and return on investments (ROI)

- (78) Profitability of the Union industry was established by expressing the pre-tax net profit of the sales of the like product as a percentage of the turnover of these sales. In establishing the profitability of the Union producers, the verified figures have been corrected in order to prevent this analysis from being influenced from extraordinary company-specific issues which had a disproportionate impact on those companies' profit figures in a given period. Following these corrections, the sampled producers' profitability and return of investments linked to the sales of the like product in the Union developed as follows during the period considered:

Table 14

Union industry - profitability & return on investments (ROI)				
<i>sampled producers</i>	2006	2007	2008	IP
net profit (as % of turnover)	0,3 %	4,7 %	3,5 %	- 15,0 %
ROI	2,5 %	6,2 %	3,0 %	- 16,8 %

- (79) As the above table shows, the Union industry could achieve limited profit levels during most of the period considered, with some exception in the year of 2007 when the average profitability rate reached 4,7 %. The profits have turned into an enormous loss during the IP: the average loss rate of the Union industry being as low as 15 %.

- (80) As concerns the return on investments ('ROI'), expressed as the profit in percent of the net book value of investments, this indicator appears to have followed the profitability trend. Overall, the return on investments remained rather limited throughout the whole period considered, with the exception of 2007. Finally, in the IP, the average ROI of the Union industry dropped to - 16,8 %.

- (81) The above fragile financial situation was in spite of the increased consumption during the period between 2006 and 2008, as described in recital (60) above, and the efforts of the Union industry to rationalize production costs, as described in recitals (75) and (76) above. During the period considered, the strongly growing volumes of low-priced dumped imports from the PRC have affected the sales volumes of the Union industry and resulted also in serious price erosion. These factors have had an impact on the financial situation of the Union industry. This is best illustrated by the dramatic loss of 15 % during the IP.

4.12. Cash flow and ability to raise capital

- (82) The net cash flow from operating activities developed as follows:

Table 15

Union industry - cash flow				
<i>sampled producers</i>	2006	2007	2008	IP
cash flow (EUR)	34 261 986	17 230 139	7 452 912	- 22 001 723
<i>Indexed</i>	100	50	22	- 64

- (83) The above table confirms the fragile financial situation of the Union industry in the period 2006-2008 and the resulting dramatic deterioration in the IP.

4.13. Investments

- (84) During the period considered, the investments of the sampled producers developed as follows:

Table 16

Union industry - investments				
<i>sampled producers</i>	2006	2007	2008	IP
net investments (EUR)	40 089 991	20 804 311	43 613 463	28 387 044
<i>Indexed</i>	100	52	109	71

- (85) During the peak years 2006 and 2008, the level of investments was relatively high in view of furnace rebuilds. In this capital intensive industry, furnaces have to be rebuilt every 7 to 10 years and the costs associated with rebuilding a furnace can amount to EUR 8 million - EUR 13 million (range given for reasons of confidentiality). A good part of the other, more structural high investment costs is linked to the alloy consumption from the bushings and the consequent rebuilding of bushings.

4.14. Magnitude of the actual dumping margin

- (86) The dumping margins for imports from the PRC, as specified above in recital (55), are very high. Given the volume, market share and prices of the dumped imports, the impact of the margins of dumping cannot be considered to be negligible.

5. Conclusion on injury

- (87) In spite of serious efforts undertaken by the Union industry to increase its competitiveness, most injury indicators pertaining to the Union industry developed negatively during the period considered. This is particularly noticeable when analysing the indicators related to the financial performance of the Union industry, notably the return on investments, cash flow and profitability, all of which developed dramatically. In addition, the indicators concerning production, production capacity, capacity utilisation, sales volumes and market share have also confirmed a clearly deteriorating trend.
- (88) At the same time, glass fibres imports from the PRC were undercutting Union industry prices by up to 39 % during the IP and the Union industry lost 5 percentage points market share within less than four years.

- (89) In the light of the foregoing, it is provisionally concluded that the Union industry has suffered material injury within the meaning of Article 3(5) of the basic Regulation.

E. CAUSATION

1. Introduction

- (90) In accordance with Article 3(6) and Article 3(7) of the basic Regulation, the Commission examined whether the dumped imports have caused injury to the Union industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time have injured the Union industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (91) Between 2006 and the IP, the volume of the dumped imports of the product concerned increased in terms of volume by 51 %, which resulted in an increase of Union market share by 98 %, from 7,9 % to 15,6 %.
- (92) The increase in dumped imports of the product concerned from the PRC over the period considered coincided with a downward trend in most injury indicators of the Union industry. The Union industry lost 5,6 percentage points of market share and its sales prices decreased by 2 % due to the price pressure exerted by low-priced dumped imports on the Union market. The significant price undercutting prevented the Union industry from passing on the increased production costs in the sales prices to an acceptable extent, which resulted in low and, during the IP, negative profitability levels.
- (93) It is also notable that the market share of dumped imports from PRC continued to increase even during the IP. In other words, as also referred to in recital (62) above, the volume of dumped imports from the PRC decreased at a lower pace than the Union consumption.
- (94) Certain interested parties claimed that there is no causal link between dumped imports and the injury suffered by the Union industry. One of the arguments raised in this respect was that the price difference between Chinese and Union sales prices has been fairly constant throughout the whole period considered, while the profitability of the Union industry fluctuated at the same time. In this respect it must be borne in mind that it is not only the level of prices but also the volume of the already low-priced dumped imports that has put a strong pressure on the sales of the Union industry. Furthermore,

even if other factors may have also played a role in the aggravated state of the Union industry, thus also affecting to some extent the profitability development of the Union industry, by no means can this mitigate the impact of the dumped imports from the PRC constantly undercutting the Union prices, particularly given that this occurred at a relatively stable rate despite the changes in the market such as consumption growth and fall or raw material price developments.

- (95) A similar argument has been put forward regarding the alleged lack of relation between the profitability figures of the Union industry and the development of their market share. Indeed, for instance, the profitability levels of the Union industry temporarily improved from 2006 to 2007 despite the drop in their market share. This was partly due to enhanced conditions on the Union market in the year of 2007 (see the 6 % increase in Union consumption as mentioned in recital (60) above). More importantly however, in the years of 2006 and 2007 the Union industry focused on rationalisation of its production by reducing manufacturing costs, which also had an impact on their profitability levels. As another example, between 2008 and the IP, the market share of the Union industry slightly rose while its profitability rate fell to a severe loss of 15 %. However, in the same period the dumped imports from the PRC could also raise their market share, while they still largely undercut the sales prices in the Union. This resulted in the huge loss realised by the Union industry. Indeed both above cases show that one or two separate indicators cannot in themselves be taken into account when measuring the effect of dumped imports on the state of the Union industry.
- (96) Based on the above it is provisionally concluded that the low-priced dumped imports from the PRC, which entered the Union market in large and constantly increasing volumes and which significantly undercut the Union industry prices throughout the period considered, had a considerably negative impact on the economic situation of the Union industry.

3. Effect of other factors

3.1. Imports from third countries

- (97) During the period considered, there were limited imports from other third countries. The total market share of imports from countries other than the PRC has decreased by 2 percentage points, from 17 % to 15 %. The second largest source of imports, Norway, held a market share of 3,3 % during the IP. Turkey had a market share of 2,5 % during the IP and the fourth largest source of imports, USA, had a market share of less than 2 % during the IP.

Table 17

Imports from other countries					
Country		2006	2007	2008	IP
Norway	Volumes (tonnes)	34 990	28 834	35 410	24 993
	Market share (%)	3,6 %	2,8 %	3,4 %	3,3 %
	Av. price (EUR)	1 254	1 412	1 360	1 256
Turkey	Volumes (tonnes)	28 981	25 035	20 658	18 874
	Market share (%)	2,9 %	2,4 %	2,0 %	2,5 %
	Av. price (EUR)	1 097	1 155	1 202	1 077
USA	Volumes (tonnes)	22 921	24 246	20 447	13 569
	Market share (%)	2,3 %	2,3 %	2,0 %	1,8 %
	Av. price (EUR)	2 309	2 101	2 506	2 615
Malaysia	Volumes (tonnes)	9 541	25 569	35 200	12 601
	Market share (%)	1,0 %	2,5 %	3,4 %	1,7 %
	Av. price (EUR)	979	1 019	1 022	1 025
Taiwan	Volumes (tonnes)	19 318	18 150	14 655	11 285
	Market share (%)	2,0 %	1,7 %	1,4 %	1,5 %
	Av. price (EUR)	1 193	1 146	1 069	975
India	Volumes (tonnes)	4 365	11 231	3 757	5 361
	Market share (%)	0,4 %	1,1 %	0,4 %	0,7 %
	Av. price (EUR)	1 308	1 232	1 315	1 240
Rep. of Korea	Volumes (tonnes)	7 959	5 974	13 934	5 116
	Market share (%)	0,8 %	0,6 %	1,3 %	0,7 %
	Av. price (EUR)	1 430	1 607	894	1 004
Japan	Volumes (tonnes)	21 671	10 727	11 174	4 609
	Market share (%)	2,2 %	1,0 %	1,1 %	0,6 %
	Av. price (EUR)	1 197	1 315	1 401	1 804
Mexico	Volumes (tonnes)	4 894	9 713	7 226	3 689
	Market share (%)	0,5 %	0,9 %	0,7 %	0,5 %
	Av. price (EUR)	1 488	1 204	1 289	1 359
Canada	Volumes (tonnes)	4 136	3 309	2 196	2 244
	Market share (%)	0,4 %	0,3 %	0,2 %	0,3 %
	Av. price (EUR)	1 303	2 025	1 761	2 146
Other countries	Volumes (tonnes)	8 954	14 848	8 519	9 227
	Market share (%)	0,9 %	1,4 %	0,8 %	1,2 %
	Av. price (EUR)	1 517	1 527	1 891	1 615

(98) The above table, which is based on Eurostat data, also shows that the average Union border price levels of other imports are generally much higher than prices of imports from the PRC, as summarized in recital (63) above. Comparing these Eurostat prices with the Union industry sales prices reported in recital (74) above, imports from Turkey appeared to be undercutting the Union industry prices during the IP. However, imports from Turkey represented in the IP a market share of 2,5 % only and that is below their market share in 2006. Moreover, prices of these imports were constantly largely above the price levels of imports from the PRC, exceeding the latter by 14 % to 23 %. Imports from Malaysia, Taiwan and the Republic of Korea appear also to be below the Union industry's prices, however, their market shares are limited and shrinking as well. Therefore, imports from Turkey, Malaysia, Taiwan and the Republic of Korea, or any other third country imports, were not considered as having had a negative impact on the Union industry's situation. On these grounds, it is reasonably to provisionally conclude that imports from other countries did not break the causal link between the dumping found and the material injury suffered by the Union industry.

3.2. Impact of the economic crisis

(99) Several parties claimed that the injury suffered by the Union industry was caused by the economic crisis which had resulted in a sharp decline in demand.

(100) Indeed, a strong drop in Union consumption could be observed between 2008 and the IP, as stated in recital (60) above. This decrease amounted to 28 % and it is recognized that it is caused by the economic crisis which hit the Union in that period. Most of the sectors using products which contain the product under investigation (car industry, wind energy, construction, etc) were seriously affected by the crisis and that resulted, at the beginning of the chain, in a drop in demand for glass fibres.

(101) However, the negative effect of the economic downturn and the contraction in demand was exacerbated by the increased dumped imports from the PRC, which significantly undercut the prices of the Union industry. Even if the economic downturn could therefore be considered as contributing to the injury during the IP, this cannot in any way diminish the damaging injurious effects of low priced dumped imports from the PRC in the Union market over the whole period considered. Even in a situation of decreasing sales, the Union industry could have been able to maintain an acceptable level of volumes and prices, thereby limiting the negative effects of a drop in consumption. Nevertheless, this could have only been possible in the absence of the unfair competition of low priced dumped imports in the

market. Moreover, the impact of the Chinese dumped imports that largely undercut the Union sales prices during the IP can be considered as even more injurious in a period of economic crisis.

(102) Given the above circumstances, the economic downturn cannot be considered as a possible cause breaking the causal link between the injury suffered by the Union industry and the dumped imports from the PRC.

3.3. Evolution of Chinese import volumes and the Union industry's financial situation

(103) Certain interested parties claimed that there is no causal link between dumped imports and the financial situation of the Union industry given that the latter achieved the best profitability rates in the years when imports from the PRC of the product concerned were at their highest volumes, and had its worst performance when imports from the PRC dropped to their lowest level during the period considered.

(104) In this respect, it is first noted that the development of consumption, in particular the economic downturn during the IP, has definitely had an effect on both the volumes of imports from the PRC and the financial situation of the Union industry, given the global character of the crisis.

(105) However, as already stated above, the dumped imports from the PRC have largely undercut the sales prices of the Union industry in the IP, i.e. during the economic downturn. This was compounded by the fact that the exporting producers from the PRC have managed to slightly further increase their market share even in the period of economic downturn, while the Union industry has realised severe losses due to their inability to sell at more beneficial prices.

(106) Indeed, it can be considered that the above price undercutting parallel to the increasing market share of dumped imports from the PRC have caused even more injury to the Union industry than as if it had been the case in a period without volatile consumption due to an economic downturn.

(107) In view of the above, by no means can it be concluded that the comparison of the mere trends of volumes of dumped imports from the PRC and the financial performance of the Union industry could be interpreted as a factor breaking the causal link between dumped imports and the injury suffered by the Union industry.

3.4. Fall in export sales and/or captive use sales of the Union industry

- (108) It was alleged by certain interested parties that the deterioration of the profitability of the Union industry was caused by the fall in export sales or the fall in production for captive use rather than by the fall of their sales within the Union. In this respect it should firstly be recalled that, with the exception of sales volumes, all injury indicators, including the profitability, have been assessed on the basis of the sales on the Union market to unrelated parties. In other words, both export sales and sales for captive use have been excluded from that calculation. Secondly, it is true that the export sales volumes have decreased at a slightly faster pace than Union sales, but this is not the case for the production for captive use which represented, throughout the period considered, between 22,4 % and 24,4 % of the total Union sales. Moreover, in view of the weight of the export sales as compared to the EU sales of the Union industry (fluctuating between 10 % and 14 % throughout the period considered), these sales cannot be considered so significant as to put into question the causal link between dumped imports and the impact on the Union industry. This argument is therefore dismissed.

3.5. Increased capacity of the Union industry and increased cost of production

- (109) It was argued by an interested party that the decline of the state of the Union industry was due to an erroneous decision to increase capacities. In this respect, it should first be mentioned that the glass fibres market has been for several years a growing market and the decision to increase capacity at certain plants cannot be considered as unreasonable business planning in a situation of growing consumption. Moreover, it is noted that, on the whole, over the period considered, the capacity of the Union industry actually decreased (see recital (68) above).
- (110) In any event, it must be noted that the Union industry has managed to cut the cost per unit of the main raw materials despite the increase of raw material cost prices during the period considered:

Table 18

Cost of raw material and cost per unit of glass fibre produced				
	2006	2007	2008	IP
Price/tonne of raw material (*)	100	106	104	102
Cost of raw material/tonne of glass fibre (*)	100	99	97	94

(*) indexed

- (111) The above development of cost of raw material per unit of glass fibre manufactured has been due to investments targeting increased efficiency and competitiveness.

Indeed, the Union industry has implemented several measures to enhance and rationalise production processes and input costs during the period considered.

- (112) As concerns labour costs, as already stated in recitals (75) to (77) above, the Union industry reduced its number of employees by 20 % over the period considered, while the average wages have been lowered even without excluding the impact of sizeable severance payments.
- (113) For the above reasons, the argument stating that the deteriorated state of the Union industry has actually been caused by the increased cost of production, possibly due to inefficiencies or high labour costs, is therefore dismissed.

3.6. Competitiveness of dumped imports from the PRC and self-inflicted injury by related Chinese producers

- (114) It has been claimed that it is the production scale and the modern technology applied by the Chinese exporters that caused injury, rather than dumping of the product under investigation. Actually, on the whole it can be established that Union producers also have large scale production as well as up to date production processes.
- (115) An interested party stated that the Union industry could have in fact caused self-inflicted injury to itself by the imports from the Chinese producers related to them. In this context, it must be noted that, as stated in recital (58) above, the volume of such imports has been very limited, both in terms of the production of the Union industry and the imports of the product concerned from the PRC.
- (116) Therefore, neither the lack of competitiveness nor the imports from related Chinese producers could be considered as a factor breaking the causal link between dumped imports from the PRC and the established injury.

4. Conclusion on causation

- (117) In conclusion, the above analysis has demonstrated that imports of glass fibres from the PRC have increased substantially in terms of quantities over the period considered, gradually eroding the market share of the Union industry. Moreover, these increased quantities which entered the Union marked at dumped prices, severely undercut the Union industry prices, thereby impeding the Union industry to pass on to its customers the increase in the cost of raw materials. Though for a certain period the Union industry had been able to offset the negative effects of this pressure by operating gains in efficiency, this was no longer possible when the economic crisis substantially reduced the level of demand.

- (118) Other factors which could have caused injury to the Union industry have also been analysed. In this respect, it was found that imports from third countries, the impact of the economic crisis, the development of other sales by the Union industry and other factors including those mentioned in recitals (97) to (116) above, do not appear to be such as to break the causal link established between the dumped imports and the injury suffered by the Union industry.
- (119) Based on the above analysis, which has properly distinguished and separated the effects of all known factors having an effect on the situation of the Union industry from the injurious effect of the dumped imports, it is provisionally concluded that the imports from the PRC have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

F. UNION INTEREST

- (120) In accordance with Article 21 of the basic Regulation, the Commission examined whether, despite the conclusions on dumping, injury and causation, compelling reasons existed which would lead to the conclusion that it is not in the Union interest to adopt measures in this particular case. For this purpose and pursuant to Article 21(1) of the basic Regulation, the Commission considered the likely impact of possible measures on all parties involved as well as the likely consequences of not taking measures.
- (121) The Commission sent questionnaires to independent importers and users. In total, 60 questionnaires were sent out. Eventually, two importers and 13 users submitted a questionnaire reply within the time limits set. In addition, several importers and users came forward in the course of the proceeding with letters expressing opposition to any possible measures in this case.

1. Interest of the Union industry

- (122) As indicated in recital (56), the like product was manufactured by 11 producers in the Union. The eight complainants represented more than 90 % of the Union production; two others supported the complaint whilst the 11th company neither supported nor opposed it.
- (123) The three sampled companies, which accounted for ca. 60 % of the total Union production, employed 3 300 persons directly involved in the production, sales and administration of the like product. It is recalled that the injury indicators showed an overall negative trend and that in particular the injury indicators related to market share and the financial performance of the Union industry, such as profitability, return on investment and cash flow, were seriously affected. In particular, over the period considered, the profitability

of the Union industry fell from an already very low level of 0,3 % to – 15,0 %, while their market share decreased by 5,6 percentage points.

- (124) If measures are imposed, it is expected that the price depression and loss of market share will come to an end and that the sales prices of the Union industry will start to recover, resulting in a significant improvement of the Union industry's financial situation.
- (125) On the other hand it is likely that the deterioration of the Union industry's market and financial situation would continue should anti-dumping measures not be imposed. In such a scenario, it is expected that the Union industry will lose further market share and it will no longer be able to follow the market prices set by imports from the PRC. Further cuts in production and investments and the closure of more production facilities in the Union will be the likely effect, resulting in massive job losses.
- (126) Accordingly, it is provisionally concluded that the imposition of anti-dumping measures would clearly be in the interest of the Union industry.

2. Interest of unrelated importers in the Union

- (127) As indicated above, sampling was not applied for the unrelated importers and two unrelated importers fully cooperated in this investigation by submitting a questionnaire reply. Only a small part of the turnover of these two importers (7 % and 25 % respectively) was generated through their activities with regard to the product concerned from the PRC. They both opposed an eventual imposition of anti-dumping measures as they considered that it could lead to a cessation of imports of the product concerned from the PRC.
- (128) The imports declared by these two importers however represented a very small proportion of all imports from the PRC in the IP (less than 1 %). No other importers have cooperated by submitting a questionnaire reply or substantiated comments. On that basis, it is provisionally concluded that the imposition of provisional measures will not have negative effects on the interest of the EU importers to any significant extent.

3. Interest of the users

- (129) Filament glass fibres subject to this proceeding are used for a large number of applications. Cooperation was obtained from the following user groups: weavers (both of high-end specialist fabrics and of more standard fabrics, e.g. for wind energy turbines, marine, transportation, aerospace and infrastructural applications); liner producers; manufacturers of compounds, inter alia used in the automotive industry; producers of composite semi-finished products or end-products.

(130) The volumes of the product concerned from the PRC purchased by the cooperating users represented ca. 20 % of the glass fibres imports from the PRC during the IP. From the information submitted through the questionnaire replies it further appears that the Union users' industry employs a significant number of people. Although in this respect, at this stage, no comprehensive and substantiated data has been submitted, the number of people working in the downstream industry in the EU can, on the basis of the information contained in these questionnaire replies, provisionally be estimated at 50 000 – 75 000. On the same basis, the employment of the glass fibre using divisions of those companies that used Chinese glass fibres during the IP can be estimated at ca. 27 000.

(131) Most of the cooperating users reported to buy glass fibres from Chinese as well as other sources, including European producers. Only a few of them bought their glass fibres exclusively from the PRC. In this sector, there is not only a wide variety in the activities of the downstream industry, but the size of these companies can also vary to a significant degree – and certain of them are part of internationally operating larger groups of companies whereas others are fully independent.

3.1. Possible impacts of measures on users' profitability

(132) On the basis of the questionnaire replies, the glass fibres user industry appears to be in a relatively healthy state. Indeed, most of the cooperating users reported profits on the production and sales of their products which contained the product under investigation throughout the period considered including the IP. However, a few users reported a loss on this activity during the IP but the profit of several others was in the range between 5 % and 10 %.

(133) The glass fibres purchase costs represent, in general, a significant part of the manufacturing costs of the user industry's products. According to the reported data this share can, depending on the product made of it, range from 10 % to more than 50 %. Therefore, for certain users an increase in the purchase costs of Chinese glass fibres may have a noticeable cost impact.

(134) On the basis of the information contained in the questionnaire replies of the cooperating users, on average, the possible profit impact of the anti-dumping measures can be estimated around 1 % on the turnover of those divisions of the user companies that use glass fibres, but less than 0,5 % on the turnover of the total companies within which glass fibre using divisions exist. In other words, the profitability of a glass fibre

using division, and that of a total company, would be affected, respectively, on average by around one and less than half a percentage point.

(135) It should be noted, however, that in the case of certain user companies, the above impact could be higher, up to ca. 5 % of their company turnover. In view of the profit levels of certain users and the share of glass fibres in their production costs, it cannot be excluded that their profitability could be affected by a strong price increase of glass fibres, unless such cost increase can be passed on, entirely or at least for a good part, to their customers.

(136) All in all, it can provisionally be concluded that, while some user companies might be more affected by the possible impact of the anti-dumping measures, other users are likely to be affected to a rather moderate extent.

3.2. Lack of interchangeability

(137) It was claimed by several users that many of the glass fibres needed by the user industry could not be purchased off-the-shelf. Instead, suppliers would need to go through a lengthy and complicated qualification process which could take 6 to 12 months, without a guarantee of success. Therefore, to change supplier in order to avoid paying anti-dumping duties would be costly, impossible in the short term and risky from a technological point of view.

(138) In this respect, it is recognised that, in particular applications, the characteristics of the product under investigation can indeed result in a lengthy qualification process which includes testing. However, also in view of the comments received from several users, at this moment it appears that for most of the cases multiple sources exist. It should also be recalled that anti-dumping measures are not meant to deny certain suppliers' access to the Union market – as any measure proposed is only meant to restore fair trade and correct a distorted market situation.

(139) Therefore, it is provisionally concluded that imposing measures on Chinese glass fibres will unlikely result in a temporarily cessation of raw material supply to the user industry.

3.3. Inability to pass on cost price increases and increased competition from non-EU downstream products

(140) Several users submitted that they would not be in a position to pass on the glass fibres price increases to the customers of their products. These users mentioned that there was fierce competition on their products' markets and that their customers would easily switch supplier if they would increase prices.

(141) Given the diversity of the user companies, it is difficult to assess overall the ability of the users to pass on potential cost price increases to their customers. Nonetheless, on the basis of the data contained in the questionnaire replies of the users, it can be assumed that even if a given user could not pass on most of its cost price increase, in most cases its turnover and profitability would be affected only to a limited extent.

(142) As concerns the competition, several users further expressed the concern that the imposition of anti-dumping duties would lead to an increase of competition from non-EU suppliers on the downstream market, as downstream products would not be subject to any protective measures, and a shift of imports from the PRC, from the glass fibres to the downstream products like compounds, fabrics and composite blades for wind turbines. In fact, as concerns the PRC, it was submitted that there was already competition from the PRC on many of these markets and that it would only be logical that this competition would be increased by the imposition of measures against glass fibres. So the user industry, it was argued, would not only have to pay higher prices for their glass fibres, but it would also have to deal with increased competition. In such business environment, it was argued, it would not be possible to pass on a significant part of any price increase to the customers.

(143) In this respect, it should be noted that the fact that the imposition of anti-dumping measures might trigger more competition cannot be a reason not to impose such measures, if warranted. The European glass fibres user industry has the same rights as the glass fibres manufacturing industry and it would be fully entitled to resort to the EU trade law and request an anti-dumping investigation for their products, if they have sufficient standing and can demonstrate *prima facie* evidence of injurious dumping.

(144) Therefore, the above argument concerning a potential increase in competition from non-EU downstream products cannot justify the non-imposition of anti-dumping measures.

3.4. Shortage of supply

(145) Several users submitted that, after the IP, there was already a shortage of supply on the Union market, and that the imposition of anti-dumping measures would aggravate this situation, as it would lead to reduced imports from the PRC whereas these imports are needed in view of the strong and growing demand.

(146) The complainants acknowledged that there was a bottleneck of supply of certain product groups manufactured by the Union industry, but they considered it as temporary and due to stock shortages following the

recovery of the market after the economic crisis. They also submitted that the Union industry would be able to meet the predicted future growth in demand by the EU downstream industries, notably by using their idle capacity which could easily be restarted, further technological improvements and furnace rebuilds, in case healthy profitability levels were restored.

(147) In this respect, it should first be noted that the purpose of anti-dumping measures is to remedy unfair trading practices having an injurious effect on the Union industry and re-establish a situation of effective competition on the EU market, not to obstruct imports. Therefore, although EU price levels of the product concerned originating in the PRC would most likely increase following the imposition of anti-dumping measures, the measures as proposed are not such as to close the Union market for the exporting producers from the PRC and will therefore allow the continued presence of imports of the product concerned from the PRC on the Union market.

(148) As concerns the ability of the Union industry to supplement any potential lack of supply of Chinese glass fibres, it should be noted that the current level of capacity utilisation of the Union industry appear to ascertain that the demand on the market could meet complete supply. Indeed, even the totality of the 116 413 tonnes of Chinese imports of glass fibres during the IP could theoretically be supplemented by the idle capacity of the Union industry which was estimated as close to 200 000 tonnes during the IP.

(149) In view of the above, it can provisionally be concluded that the issue of a potential shortage of supply can be addressed by extended capacity utilisation of the Union industry, by other imports as well as by non-dumped imports of the product concerned from the PRC.

4. Conclusion on Union interest

(150) To conclude, it is expected that the imposition of measures on dumped imports of the product concerned from the PRC would provide an opportunity for the Union industry to improve its situation through increased sales volumes, sales prices and market share. While some negative effects may occur in the form of cost increases for certain users, they are likely to be outweighed by the expected benefits for the producers and their suppliers.

(151) In the light of the above, it is provisionally concluded that on balance, no compelling reasons exist against the imposition of provisional measures on imports of the product concerned originating in the PRC. However, this preliminary assessment may require further careful analysis following comments of interested parties.

G. PROVISIONAL ANTI-DUMPING MEASURES

- (152) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, provisional measures should be imposed on imports of the product concerned originating in the People's Republic of China in order to prevent further injury to the Union industry by the dumped imports.

1. Injury elimination level

- (153) The provisional measures on imports originating in the PRC should be imposed at a level sufficient to eliminate the injury caused to the Union industry by the dumped imports, without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it is considered that any measures should allow the Union industry to cover its costs of production and obtain overall a profit before tax that could be reasonably achieved under normal conditions of competition, i.e. in the absence of dumped imports.
- (154) The Union industry has claimed that for the determination of the injury elimination level a target profit of 12 % to 15 % should be used. However, the evidence provided so far does not convincingly show that such a profit level is the minimum necessary to ensure the viable business activity of the Union industry in this business sector. In the absence of solid evidence supporting a higher level of target profit, it has been provisionally considered that a target profit of 5 % would appear appropriate for the determination of the injury elimination level.
- (155) On this basis, a non-injurious price was calculated for the Union industry of the like product. The non-injurious price has been established by deducting the actual profit margin from the ex-works price and adding to the thus calculated break even price the above-mentioned target profit margin.
- (156) As a result, the following injury elimination levels have provisionally been established:

Company	Injury elimination level
New Changhai Group	61,4 %
Other cooperating companies	104,2 %
Residual	104,2 %

2. Provisional measures

- (157) In the light of the foregoing and pursuant to Article 7(2) of the basic Regulation, it is considered that a provisional anti-dumping duty should be imposed on imports of the

product concerned originating in the PRC at the level of the lowest of the dumping margin and injury elimination level found, in accordance with the lesser duty rule, which is in all cases the dumping margin.

- (158) Given the very high rate of co-operation of Chinese exporting producers, the provisional duty rate for co-operating exporting producers which were not granted individual treatment or examination and for any non co-operating exporting producers is the same. On the basis of the above, the proposed duty rates are:

Company	Provisional duty
New Changhai Group	8,5 %
Other cooperating companies	43,6 %
All other companies	43,6 %

- (159) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (160) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting-up of new production or sales entities) should be addressed to the Commission ⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. If appropriate, the Regulation will accordingly be amended by updating the list of companies benefiting from individual duty rates.
- (161) In order to ensure a proper enforcement of the anti-dumping duty, the duty level for all other companies should not only apply to the non-cooperating exporting producers, but also to those producers which did not have any exports to the Union during the IP.

⁽¹⁾ European Commission
Directorate-General for Trade
Direction H
Office Nerv- 105
B-1049 Brussels.

H. FINAL PROVISION

(162) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive measures,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of chopped glass fibre strands, of a length of not more than 50 mm; glass fibre rovings, excluding glass fibre rovings which are impregnated and coated and have a loss on ignition of more than 3 % (as determined by the ISO Standard 1887); yarns of glass fibre filaments, excluding yarns that are impregnated and coated and have a loss on ignition of more than 3 % (as determined by the ISO Standard 1887); and mats made of glass fibre filaments excluding mats of glass wool currently falling within CN codes 7019 11 00, ex 7019 12 00, ex 7019 19 10 and ex 7019 31 00 (TARIC codes 7019 31 00 29, 7019 12 00 21, 7019 12 00 22, 7019 12 00 23, 7019 12 00 24, 7019 12 00 39, 7019 19 10 61, 7019 19 10 62, 7019 19 10 63, 7019 19 10 64, 7019 19 10 65, 7019 19 10 66, 7019 19 10 79 and 7019 31 00 99) and originating in the People's Republic of China.

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

Company	Anti-dumping duty (%)	TARIC additional code
Changzhou New Changhai Fiberglass Co., Ltd. and Jiangsu Changhai Composite Materials Holding Co., Ltd., Tangqiao, Yaoguan Town, Changzhou City, Jiangsu	8,5	A983
All other companies	43,6	A999

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

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

Article 2

Without prejudice to Article 20 of Council Regulation (EC) No 1225/2009, interested parties may request disclosure of the details underlying the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 1225/2009, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 15 September 2010.

For the Commission

The President

José Manuel BARROSO

COMMISSION REGULATION (EU) No 813/2010**of 15 September 2010****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

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

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 September 2010.

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

Done at Brussels, 15 September 2010.

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

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

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

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	MK	65,0
	XS	64,0
	ZZ	64,5
0707 00 05	MK	57,0
	TR	145,1
	ZZ	101,1
0709 90 70	TR	124,1
	ZZ	124,1
0805 50 10	AR	142,9
	CL	133,5
	IL	141,4
	TR	142,5
	UY	99,8
	ZA	107,5
	ZZ	127,9
0806 10 10	EG	148,1
	IL	122,3
	TR	117,5
	ZA	92,1
	ZZ	120,0
0808 10 80	AR	67,5
	BR	71,9
	CL	125,7
	CN	64,8
	NZ	94,1
	US	87,4
	ZA	90,6
	ZZ	86,0
0808 20 50	AR	157,6
	CL	150,5
	CN	86,4
	ZA	78,8
	ZZ	118,3
0809 30	TR	148,1
	ZZ	148,1
0809 40 05	BA	56,9
	IL	165,3
	ZZ	111,1

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

COMMISSION REGULATION (EU) No 814/2010**of 15 September 2010****fixing the import duties in the cereals sector applicable from 16 September 2010**

THE EUROPEAN COMMISSION,

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

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

Having regard to Commission Regulation (EU) No 642/2010 of 20 July 2010 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 136(1) of Regulation (EC) No 1234/2007 states that the import duty on products falling within CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002, ex 1005 other than hybrid seed, and ex 1007 other than hybrids for sowing, is to be equal to the intervention price valid for such products on importation increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

- (2) Article 136(2) of Regulation (EC) No 1234/2007 lays down that, for the purposes of calculating the import duty referred to in paragraph 1 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

- (3) Under Article 2(2) of Regulation (EU) No 642/2010, the price to be used for the calculation of the import duty on products of CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00, 1005 10 90, 1005 90 00 and 1007 00 90 is the daily cif representative import price determined as specified in Article 5 of that Regulation.

- (4) Import duties should be fixed for the period from 16 September 2010 and should apply until new import duties are fixed and enter into force,

HAS ADOPTED THIS REGULATION:

Article 1

From 16 September 2010, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

This Regulation shall enter into force on 16 September 2010.

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

Done at Brussels, 15 September 2010.

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

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 187, 21.7.2010, p. 5.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 16 September 2010

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00
1002 00 00	Rye	7,00
1005 10 90	Maize seed other than hybrid	0,00
1005 90 00	Maize, other than seed ⁽²⁾	0,00
1007 00 90	Grain sorghum other than hybrids for sowing	7,00

⁽¹⁾ For goods arriving in the Union via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EU) No 642/2010, from a reduction in the duty of:

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or on the Black Sea,
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 3 of Regulation (EU) No 642/2010 are met.

ANNEX II

Factors for calculating the duties laid down in Annex I

31.8.2010-14.9.2010

1. Averages over the reference period referred to in Article 2(2) of Regulation (EU) No 642/2010:

(EUR/t)

	Common wheat ⁽¹⁾	Maize	Durum wheat, high quality	Durum wheat, medium quality ⁽²⁾	Durum wheat, low quality ⁽³⁾	Barley
Exchange	Minneapolis	Chicago	—	—	—	—
Quotation	228,63	143,93	—	—	—	—
Fob price USA	—	—	170,33	160,33	140,33	96,18
Gulf of Mexico premium	—	15,71	—	—	—	—
Great Lakes premium	22,06	—	—	—	—	—

⁽¹⁾ Premium of 14 EUR/t incorporated (Article 5(3) of Regulation (EU) No 642/2010).⁽²⁾ Discount of 10 EUR/t (Article 5(3) of Regulation (EU) No 642/2010).⁽³⁾ Discount of 30 EUR/t (Article 5(3) of Regulation (EU) No 642/2010).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EU) No 642/2010:

Freight costs: Gulf of Mexico–Rotterdam: 23,62 EUR/t

Freight costs: Great Lakes–Rotterdam: 53,85 EUR/t

COMMISSION REGULATION (EU) No 815/2010**of 15 September 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE EUROPEAN COMMISSION,

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

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

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

Whereas:

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

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 809/2010 ⁽⁴⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 September 2010.

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

Done at Brussels, 15 September 2010.

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

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 253, 25.9.2009, p. 3.

⁽⁴⁾ OJ L 242, 15.9.2010, p. 23.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 16 September 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	56,73	0,00
1701 11 90 ⁽¹⁾	56,73	0,00
1701 12 10 ⁽¹⁾	56,73	0,00
1701 12 90 ⁽¹⁾	56,73	0,00
1701 91 00 ⁽²⁾	49,77	2,54
1701 99 10 ⁽²⁾	49,77	0,00
1701 99 90 ⁽²⁾	49,77	0,00
1702 90 95 ⁽³⁾	0,50	0,22

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

IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

COUNCIL DECISION

of 27 July 2009

on the signing, on behalf of the Community, of the Arrangement between the European Community, of the one part, and the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union

(2010/491/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(a) and Article 66 in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 21(3) of Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union ⁽¹⁾ provides for countries associated with the implementation, application and development of the Schengen *acquis* to participate in that Agency. The modalities of their participation are to be specified in further arrangements to be concluded between the Community and those countries.
- (2) Following the authorisation given to the Commission on 11 March 2008, negotiations with the Swiss Confederation and the Principality of Liechtenstein for an Arrangement on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union have been concluded.
- (3) Subject to its possible conclusion at a later date, the Arrangement initialled on 19 January 2009 should be signed and the attached Joint Declarations approved.
- (4) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision and is not bound by it,

or subject to its application. Given that this Decision builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of that Protocol, decide within a period of six months after the date of adoption of this Decision whether it will implement it in its national law.

- (5) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽²⁾. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (6) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽³⁾. Ireland is therefore not taking part in its adoption and is not bound by it or subject to application thereof,

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Arrangement between the European Community, of the one part, and the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union and the attached Joint Declarations are hereby approved on behalf of the Community, subject to the conclusion of the Arrangement.

⁽¹⁾ OJ L 349, 25.11.2004, p. 1.

⁽²⁾ OJ L 131, 1.6.2000, p. 43.

⁽³⁾ OJ L 64, 7.3.2002, p. 20.

Article 2

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

Done at Brussels, 27 July 2009.

For the Council

The President

C. BILDT

CORRIGENDA**Corrigendum to Directive 2010/45/EU of the European Parliament and of the Council of 7 July 2010 on standards of quality and safety of human organs intended for transplantation***(Official Journal of the European Union L 207 of 6 August 2010)*

On the cover, in the title:

for: 'Directive 2010/45/EU of the European Parliament and of the Council of 7 July 2010 ...',

read: 'Directive 2010/53/EU of the European Parliament and of the Council of 7 July 2010 ...';

on page 14, in the title of the Directive:

for: 'DIRECTIVE 2010/45/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 July 2010 ...',

read: 'DIRECTIVE 2010/53/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 July 2010 ...'.

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