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Legislation

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Contents

II *Non-legislative acts*

INTERNATIONAL AGREEMENTS

2012/184/EU:

- ★ **Council Decision of 19 December 2011 on the signing, on behalf of the Union, and provisional application, of the Agreement between the European Union and the People's Democratic Republic of Algeria on scientific and technological cooperation** 1

Agreement between the European Union and the People's Democratic Republic of Algeria on scientific and technological cooperation 2

REGULATIONS

- ★ **Commission Implementing Regulation (EU) No 297/2012 of 2 April 2012 concerning the classification of certain goods in the Combined Nomenclature** 9
- ★ **Commission Implementing Regulation (EU) No 298/2012 of 2 April 2012 concerning the classification of certain goods in the Combined Nomenclature** 12
- ★ **Commission Implementing Regulation (EU) No 299/2012 of 2 April 2012 concerning the classification of certain goods in the Combined Nomenclature** 15
- ★ **Commission Implementing Regulation (EU) No 300/2012 of 2 April 2012 concerning the classification of certain goods in the Combined Nomenclature** 17

Price: EUR 3

(Continued overleaf)

EN

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

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

★ Commission Implementing Regulation (EU) No 301/2012 of 2 April 2012 concerning the classification of certain goods in the Combined Nomenclature	19
★ Commission Implementing Regulation (EU) No 302/2012 of 4 April 2012 amending Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors	21
Commission Implementing Regulation (EU) No 303/2012 of 4 April 2012 establishing the standard import values for determining the entry price of certain fruit and vegetables	30
Commission Implementing Regulation (EU) No 304/2012 of 4 April 2012 fixing the allocation coefficient to be applied to applications for import licences lodged from 23 to 30 March 2012 under subquota I in the context of the tariff quota opened by Regulation (EC) No 1067/2008 for common wheat of a quality other than high quality	32

DECISIONS

2012/185/EU:

★ Commission Decision of 4 April 2012 terminating the anti-dumping proceeding concerning imports of sodium cyclamate originating in the People's Republic of China, limited to two Chinese exporting producers Fang Da Food Additive (Shen Zhen) Limited and Fang Da Food Additive (Yang Quan) Limited	33
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II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION

of 19 December 2011

on the signing, on behalf of the Union, and provisional application, of the Agreement between the European Union and the People's Democratic Republic of Algeria on scientific and technological cooperation

(2012/184/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 186 in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 16 November 2009, the Council authorised the Commission to negotiate, on behalf of the Union, an Agreement between the European Union and the People's Democratic Republic of Algeria on scientific and technological cooperation (the 'Agreement'). It was initialled on 14 October 2010.

(2) The Agreement should be signed and applied on a provisional basis, pending the completion of the procedures for its conclusion,

HAS ADOPTED THIS DECISION:

scientific and technological cooperation is hereby authorised on behalf of the Union, subject to the conclusion of the said Agreement.

2. The text of the Agreement is attached to this Decision.

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.

Article 3

The Agreement shall be applied on a provisional basis, in accordance with Article 7(2) thereof, pending the completion of the procedures for its conclusion.

Article 4

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

Done at Brussels, 19 December 2011.

Article 1

1. The signing of the Agreement between the European Union and the People's Democratic Republic of Algeria on

*For the Council**The President*

M. KOROLEC

AGREEMENT

between the European Union and the People's Democratic Republic of Algeria on scientific and technological cooperation

THE EUROPEAN UNION, hereinafter referred to as 'the Union',

of the one part, and

THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA, hereinafter referred to as 'Algeria',

of the other part,

hereinafter referred to as 'the Parties',

HAVING REGARD TO the importance of science and technology for the economic and social development of the two Parties and the reference made in Article 51 of the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, which came into force on 1 September 2005;

HAVING REGARD TO the European Neighbourhood Policy and the Union's strategy for strengthening its relations with neighbouring countries;

WHEREAS the Union and Algeria have undertaken joint research, technological development and demonstration activities, in various fields of common interest, and it would be to their mutual advantage for each to take part in the other party's research and development activities, on a reciprocal basis;

WISHING to establish a formal framework for cooperation in scientific and technological research which would make it possible to extend and intensify cooperative efforts in the fields of common interest and to encourage the use of the results of this cooperation to further the Parties' mutual economic and social interests;

WISHING to open the European Research Area to non-member countries and in particular to the Mediterranean partner countries;

HAVE AGREED AS FOLLOWS:

Article 1

Scope and principles

1. The Parties shall encourage, develop and facilitate cooperation activities between the Union and Algeria in fields of common interest where they are pursuing research and development activities in science and technology.

2. Cooperation activities shall be conducted on the basis of the following principles:

- (a) promotion of a knowledge-based society to foster the social and economic development of both Parties;
- (b) mutual benefit based on an overall balance of advantages;
- (c) reciprocal access to the activities of research programmes and technological developments undertaken by each Party;
- (d) timely exchange of information which may facilitate cooperative activities;

(e) appropriate exchange and protection of intellectual property rights;

(f) participation and funding in compliance with the relevant laws and regulations of the Parties.

Article 2

Means of cooperation

1. Legal entities established in Algeria, as defined in Annex I, including either physical persons or private or public legal persons, shall participate in indirect cooperation activities of the Union's Framework Programme for research and technological development and demonstration activities (hereinafter referred to as the 'Framework Programme'), in accordance with the terms and conditions established by or referred to in Annexes I and II.

Legal entities established in the Member States of the Union, as defined in Annex I, shall participate in Algeria's research programmes and projects in thematic areas equivalent to those of the Framework programme under the same terms and conditions established by, or referred to in Annexes I and II.

2. Cooperation may also take the following forms:

- (a) regular discussions on the guidelines and priorities for research policies and planning in Algeria and the Union;
- (b) discussions on cooperation, developments and future prospects;
- (c) the timely provision of information concerning the implementation of programmes and research projects of Algeria and of the Union, and concerning the results of work undertaken within the framework of this Agreement;
- (d) joint meetings;
- (e) visits and exchanges of research workers, engineers and technicians, including for training purposes;
- (f) exchanges and sharing of equipment, materials and testing services;
- (g) contacts between programme or project managers of Algeria and the Union;
- (h) participation of experts in seminars, symposia and workshops;
- (i) exchanges of information on practices, laws, regulations, and programmes relevant to cooperation under this Agreement;
- (j) research and technological development training;
- (k) reciprocal access to scientific and technologic information in the framework of this cooperation;
- (l) any other means to be adopted by the European Union-Algeria Joint Scientific and Technological Cooperation Committee, as defined in Article 4, and deemed in conformity with the policies and procedures applicable in both Parties;
- (m) supporting the optimum exploitation of the results of research and development by innovating companies in order to promote the spread of new knowledge and innovation;
- (n) assisting the management of scientific research and supporting the setting up of an information system on research;
- (o) examining the possibility of cooperation in setting up incubators and nurseries and the start-up and creation of research centres, including by means of European programmes other than the Framework Programme;
- (p) promoting cooperation by means of research and development projects;

(q) access to research infrastructures;

(r) possibility of co-financing and coordinating research activities.

Article 3

Enhancement of cooperation

The Parties shall make every effort, within the framework of their applicable legislation, to facilitate the free movement and residence of research workers participating in the activities covered by this Agreement and to facilitate cross-border movement of goods intended for use in such activities.

Article 4

Management of the Agreement

European Union-Algeria Joint Scientific and Technological Cooperation Committee

1. The coordination and facilitation of activities under this Agreement shall be performed on behalf of Algeria, by the Ministry of Higher Education and Scientific Research and, on behalf of the Union, by the European Commission, acting as executive agents of the Parties (hereinafter referred to as 'executive agents').

2. The executive agents shall establish a joint committee called the 'European Union-Algeria Joint Scientific and Technological Cooperation Committee' (hereinafter 'the Joint Committee'), whose functions shall include:

- (a) ensuring, evaluating and reviewing the implementation of this Agreement, as well as modifying its Annexes or adopting new ones to take account of developments in the Parties' scientific policies, subject to the fulfilment by each of the Parties of its internal procedures for that purpose;
- (b) identifying, on an annual basis, potential sectors where cooperation should be developed and improved and examine any measure which could be taken to that end;
- (c) regularly examining the future orientations and priorities of research policies and research planning in Algeria and the Union and the prospects for future cooperation within the framework of this Agreement;
- (d) making recommendations to the Parties with regard to the implementation of this Agreement, including the identification and recommendation of additions to the activities referred to in Article 2(2) and specific measures to improve the mutual access provided for under Article 1(2);
- (e) making, subject to each Party's domestic approval processes, technical amendments to this Agreement as may be required.

3. The Joint Committee, which shall be formed of representatives of the Executive Agents, shall adopt its rules of procedure.

4. The Joint Committee shall normally meet once a year, with the location of that meeting alternating between the Union and Algeria. Extraordinary meetings shall be held whenever necessary and agreed between the Parties. The conclusions and recommendations of the Joint Committee shall be sent for information to the Association Committee of the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part.

Article 5

Financing

The level of participation in research activities under this Agreement is set according to the conditions defined in Annex I and is subject to the legislation, regulations, policies and conditions of implementation of the programmes in force in the territory of each Party.

When one Party grants financial support to participants of the other Party in connection with indirect cooperative activities, any grants and financial or other contributions made by the funding Party to participants of the other Party in support of those activities shall be granted tax and customs duty exemption in accordance with the relevant laws and regulations in force in the territory of each Party at the time such grants and financial or other contributions are made.

Article 6

Dissemination and use of the results and information

The dissemination and the use of the results and information obtained and/or exchanged and the management, allocation and exercise of intellectual property rights resulting from the research activities undertaken under this Agreement shall be subject to the conditions provided for in Annex II.

Article 7

Final provisions

1. Annexes I and II shall form an integral part of this Agreement. Any questions or disputes relating to the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties.

2. This Agreement shall enter into force once the Parties have notified each other of the completion of their internal

procedures for its conclusion. Pending the completion of these procedures by the Parties, the Parties shall provisionally apply this Agreement upon its signature. Should a Party notify the other that it will not conclude the Agreement, the projects and activities commenced during the period of provisional application and which are still ongoing at the time of the aforementioned notification shall continue until their completion under the conditions laid down in this Agreement.

3. Either of the Parties may terminate this Agreement at any time by giving six months' notice. Projects and activities in progress at the time of termination of the Agreement shall continue until their completion under the conditions laid down therein.

4. This Agreement shall remain in force after the initial period until such time as either Party gives notice in writing to the other Party of its intention to terminate it. In this event, the Agreement shall cease to have effect six months after the receipt of such notification.

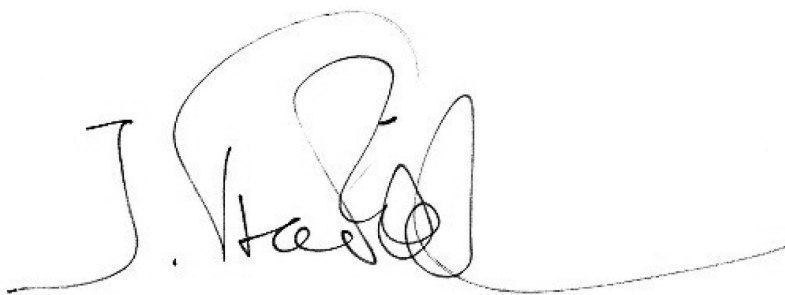
5. If one of the Parties decides to modify its research programmes or projects referred to in Article 1(1), the executive agent of that Party shall notify the executive agent of the other Party of the precise content of the amendments in question. By way of derogation from paragraph 3 of this Article, this Agreement may be terminated under mutually agreed conditions should either of the Parties notify the other within one month after the adoption of the amendments referred to in this paragraph of its intention to terminate this Agreement.

6. This Agreement shall apply, on the one hand, to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union apply and under the conditions laid down in these Treaties, and, on the other hand, to the territory of the People's Democratic Republic of Algeria. This shall not prevent the conduct of cooperative activities on the high seas, in space, or the territory of third countries, in accordance with international law.

IN WITNESS WHEREOF, the undersigned, being duly authorised to that end by the European Union and the People's Democratic Republic of Algeria respectively, have signed this agreement.

DONE in duplicate at Algiers, on the nineteenth day of March in the year two thousand and twelve, in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish and Arabic languages, each text being equally authentic.

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




عن الاتحاد الأوروبي

За правителството на Алжирската демократична народна република
 Por el Gobierno de la República Argelina Democrática y Popular
 Za vládu Alžírské demokratické a lidové republiky
 For regeringen for Den Demokratiske Folkerepublik Algeriet
 Für die Regierung der Demokratischen Volksrepublik Algerien
 Alžeeria Demokraatliku Rahvavabariigi valitsusele
 Για την κυβέρνηση της Λαϊκής Δημοκρατίας της Αλγερίας
 For the Government of the People's Democratic Republic of Algeria
 Pour le gouvernement de la République algérienne démocratique et populaire
 Per il governo della Repubblica algerina democratica e popolare
 Alžīrijas Tautas Demokrātiskās Republikas valdības vārdā –
 Alžyro Liaudies Demokratinės Respublikos Vyriausybės vardu
 Az Algéria Demokratikus és Népi Köztársaság kormánya részéről
 Ghall-Gvern tar-Repubblika Demokratika Popolari tal-Algerija
 Voor de regering van de Democratische Volksrepubliek Algerije
 W imieniu rządu Algierskiej Republiki Ludowo-Demokratycznej
 Pelo Governo da República Argelina Democrática e Popular
 Pentru Guvernul Republicii Algeriene Democratice și Populare
 Za vládu Alžírskéj demokratickej ľudovej republiky
 Za Vlado Ljudske demokratične republike Alžirije
 Algerian demokraattisen kansantasavallan hallituksen puolesta
 För Demokratiska folkrepubliken Algeriets regering



عن حكومة الجمهورية الجزائرية الديمقراطية الشعبية

ANNEX I

Terms and conditions for the participation of legal entities established in Member States of the Union and in Algeria

For the purpose of this Agreement, a 'legal entity' means any natural person, or any legal person created under the national law of its place of establishment or under Union law or international law, having legal personality and being entitled to have rights and obligations of any kind in its own name.

I. Terms and conditions for the participation of legal entities established in Algeria in indirect actions of the Framework Programme

1. The participation of legal entities established in Algeria in indirect actions of the Framework Programme shall follow the conditions laid down by the European Parliament and the Council according to Article 183 of the Treaty on the Functioning of the European Union.
2. The Union may grant funding to legal entities established in Algeria participating in the indirect actions referred to in paragraph 1 in accordance with the terms and conditions laid down by the decision(s) taken by the European Parliament and the Council in accordance with Article 183 of the Treaty on the Functioning of the European Union, the Union's Financial Regulation and other applicable Union legislation.
3. Provision must be made for the performance of controls and audits carried out by, or under the authority of, the European Commission and the European Court of Auditors in either a grant agreement or contract entered into by the Union with a legal entity established in Algeria in order to conduct indirect action or in the grant decision issued by the Union.

In the spirit of cooperation and mutual interest, the relevant Algerian authorities shall provide any reasonable and feasible assistance as may be necessary or helpful in order to perform such controls and audits and recovery measures.

II. Terms and conditions for the participation of legal entities established in Member States of the Union in Algerian research programmes and projects

1. Any legal entity established in the Union, created under the national law of one of the Member States of the Union or under Union law, may participate in Algerian research and development programmes and projects jointly with Algerian legal entities.
2. The rights and obligations of legal entities established in the Union participating in Algerian research projects in the context of research and development programmes, as well as the terms and conditions applicable for the submission and evaluation of proposals and for the granting and conclusion of contracts in such projects shall be subject to Algerian laws, regulations and government directives governing the implementation of research and development programmes, as applicable to Algerian legal entities and ensuring equal treatment, taking into account the nature of the cooperation between Algeria and the Union in this area.

The financing of legal entities established in the Union participating in Algerian projects as part of research and development programmes shall be subject to Algerian laws, regulations and government directives governing the operation of these programmes, as applicable to non-Algerian legal entities.

III. Information on participation opportunities

Algeria and the European Commission shall regularly make available information on current programmes and participation opportunities for the benefit of legal entities established in the two Parties.

ANNEX II

PRINCIPLES GOVERNING THE ALLOCATION OF INTELLECTUAL PROPERTY RIGHTS**I. Scope**

For the purposes of this Agreement, 'intellectual property' shall have the meaning given in Article 2 of the Convention establishing the World Intellectual Property Organisation, signed at Stockholm on 14 July 1967.

For the purposes of this Agreement, 'knowledge' shall mean the results, including information, irrespective of whether or not it can be protected, as well as copyrights or rights pertaining to such information, resulting from applications for, or the issue of, patents, designs, plant varieties, supplementary protection certificates or similar forms of protection.

II. Intellectual property rights of legal entities of the Parties participating in indirect cooperation activities

1. Each Party shall ensure that its treatment of the intellectual property rights and obligations of legal entities established in the other Party's territories participating in indirect cooperation activities carried out pursuant to this Agreement, and the related rights and obligations arising from such participation, is consistent with the relevant laws and regulations and international conventions that are applicable to the Parties, including the Agreement on Trade-Related Aspects of Intellectual Property Rights, Annex 1C to the Marrakech Agreement Establishing the World Trade Organisation as well as the Paris Act of 24 July 1971 of the Berne Convention for the Protection of Literary and Artistic Works and the Stockholm Act of 14 July 1967 of the Paris Convention for the Protection of Industrial Property.
2. Each Party shall ensure that the participants in indirect cooperation activities of the other Party have the same treatment with regard to intellectual property as is accorded to the participants of the first Party under the rules of participation of each research programme or project, or its applicable laws and regulations.

III. Intellectual property rights of the Parties

1. Unless otherwise specifically agreed by the Parties, the following rules shall apply to knowledge generated by the Parties in the course of activities carried out in accordance with Article 2 of this Agreement:
 - (a) The Party generating such knowledge shall be the owner of that knowledge. Where their respective share of the work cannot be ascertained, the Parties shall have joint ownership of such knowledge;
 - (b) The Party owning that knowledge shall grant access rights to it to the other Party for carrying out activities referred to in Article 2 of this Agreement. Such access rights shall be granted on a royalty-free basis.
2. Unless otherwise agreed between the Parties, the following rules shall apply to scientific literature from the Parties:
 - (a) Where a Party publishes data, information and technical or scientific results arising from the activities undertaken under this Agreement in journals, articles, reports and books, including audiovisual works and software, a worldwide, non-exclusive, irrevocable royalty-free licence to translate, reproduce, adapt, transmit and publicly distribute the works in question shall be granted to the other Party;
 - (b) All copies of data and information, protected by copyright, which have to be publicly distributed and prepared under this section, shall indicate the name(s) of the author(s) of the work unless an author explicitly declines to be named. Each copy shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.
3. Unless otherwise specifically agreed by the Parties, the following rules shall apply to confidentiality information of the Parties:
 - (a) When communicating to the other Party information relating to activities carried out pursuant to this Agreement, each Party shall identify the information it wishes to remain undisclosed through confidential insignias or legends;
 - (b) The receiving Party may under its own responsibility communicate undisclosed information to bodies or persons under its authority for the specific purposes of implementing this Agreement;

- (c) With the prior written consent of the Party providing undisclosed information, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in point (b). The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party shall provide such approval to the extent permitted by its domestic policies, regulations and laws;
 - (d) Non-documentary undisclosable or other confidential information provided in seminars and other meetings between representatives of the Parties arranged under this Agreement, or information arising from the secondment of staff, use of facilities or indirect cooperation activities, shall remain confidential when the recipient of such undisclosable or other confidential or privileged information was made aware of the confidential character of the information communicated prior to such communication being made, pursuant to point (a);
 - (e) Each Party shall endeavour to ensure that the undisclosed information received by it under points (a) and (d) is protected as provided herein. If one of the Parties becomes aware that it will be, or may become, unable to comply with the non-dissemination provisions laid down in points (a) and (d), it shall immediately inform the other Party thereof. The Parties shall thereafter consult to define an appropriate course of action.
-

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 297/2012

of 2 April 2012

concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that, subject to the measures in force in the Union relating to double-checking systems and to prior and retrospective surveillance of textile

products on importation into the Union, binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature and which is not in accordance with this Regulation, may continue to be invoked for a period of 60 days by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

Subject to the measures in force in the Union relating to double-checking systems and to prior and retrospective surveillance of textile products on importation into the Union, binding tariff information issued by the customs authorities of Member States which is not in accordance with this Regulation, may continue to be invoked for a period of 60 days, under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 2 April 2012.

For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission

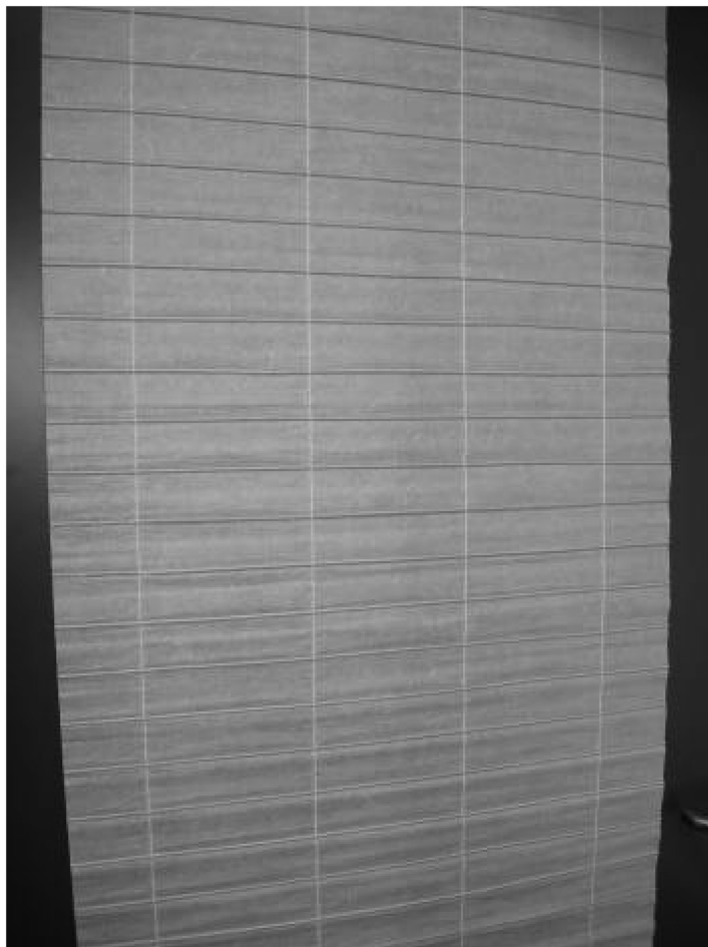
⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
A rectangular article measuring approximately 60 × 300 cm, composed of two different layers (one layer of textile fabric and one layer of paper) glued together and having a total thickness of approximately 0,26 mm. The layer of textile fabric consists of non-woven synthetic (polyester) fibres with a thickness of approximately 0,18 mm and a weight of approximately 48,3 g/m². The layer of paper has a thickness of approximately 0,08 mm and a weight of approximately 20,9 g/m². The visible side of the paper layer is slightly patterned and has four textile cords of cotton (in the form of twine) glued vertically along the whole length. On the same side, thin bamboo sticks run horizontally across the full width at approximately 4 cm-intervals. The article can be used for several purposes, for example as a panel curtain, as a room divider, to hide open storage or to replace a door. (panel curtain) (see photograph No 657) (*)	6303 92 10	Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, Note 1 to Chapter 63, Note 7(e) to Section XI and the wording of CN codes 6303, 6303 92 and 6303 92 10. The non-woven textile fabric confers the essential character to the article, because its presence is predominant in quantity and weight, and because of its important role in relation to the use of the article (see also the Harmonised System Explanatory Notes to General Rule for Interpretation 3(b), point VIII). More specifically, without the reinforcement function of the non-woven textile fabric, the determined use would not be possible. Therefore, classification under Chapter 48 as an article of paper is excluded. As the article consists of two different materials gummed together (the polyester non-woven textile fabric and the paper), the article is considered to be a made up article within the meaning of Note 7(e) to Section XI. As the thin bamboo sticks are glued at intervals of approximately 4 cm it is considered that they only have an ornamental function and do not contribute to reinforcing the article. Consequently, classification under Chapter 46 as an article of bamboo is excluded. Due to its size, the possibility to shorten it to the desired length by simply cutting, and the fact that it can be used for several purposes related to the use of the curtain, the article has the objective characteristics of a curtain or interior blind. It is therefore to be classified under CN code 6303 92 10 as a curtain or interior blind, of synthetic fibres.

(*) The photograph is purely for information.



COMMISSION IMPLEMENTING REGULATION (EU) No 298/2012
of 2 April 2012
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.
- (4) It is appropriate to provide that, subject to the measures in force in the Union relating to double checking systems and to prior and retrospective surveillance of textile products on importation into the Union, binding tariff

information issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature and which is not in accordance with this Regulation, may continue to be invoked for a period of 60 days by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

Subject to the measures in force in the Union relating to double checking systems and to prior and retrospective surveillance of textile products on importation into the European Union, binding tariff information issued by the customs authorities of Member States which is not in accordance with this Regulation, may continue to be invoked for a period of 60 days, under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 2 April 2012.

*For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission*

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
Made-up article in the form of a sleeveless garment, intended to cover the upper part of the body, reaching down to below the hips. The article is made up of three panels, assembled by sewing. Each panel is made of three layers, two outer layers of woven textile fabric of man-made fibres (nylon) and an inner layer, that serves as protection against radiation, made from a mixture of antimony powder, tungsten powder and a polymer. The three layers are stitched together along all the edges with an applied ribbon. The two front panels overlap each other entirely, left over right. The two front panels are fastened together by two broad long vertical 'Velcro'-type strips down the front and two shorter 'Velcro'-type strips at the shoulders. The front fastening is assisted on the right side by three snap-fit closings. The article has a round neckline, a breast pocket on the left side and padded shoulders. (protective industrial and occupational clothing) (See photographs Nos 659 A and B) (*)	6211 33 10	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 7(e) to Section XI, Note 8 to Chapter 62 and the wording of CN codes 6211, 6211 33 and 6211 33 10. The article is designed to be worn as a protective garment against radiation during professional activities involving x-rays. It is to be considered as industrial and occupational clothing, since it is designed to be worn solely or mainly in order to provide protection for other clothing and/or persons during industrial, professional or domestic activities (see also the Explanatory Notes to the Combined Nomenclature to Chapter 62, General, paragraph 4). Anti-radiation protective suits are included in heading 6210 of Section XI (see also the Harmonised System Explanatory Note to heading 6210, second paragraph). However, since the article is not made up of fabrics of headings 5602, 5603, 5903, 5906 or 5907, classification under that heading is excluded. Given the general appearance of the article as a garment, its shape and the textile material the two outer layers are made of, classification according to the article's inner layer is excluded. Therefore, classification under CN code 8110 90 00 is excluded. The article is therefore to be classified under CN code 6211 33 10 as industrial and occupational clothing.

(*) The photographs are purely for information.



659 A



659 B

COMMISSION IMPLEMENTING REGULATION (EU) No 299/2012
of 2 April 2012
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

(5) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 2 April 2012.

For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
A portable battery-operated multifunctional electronic apparatus in a single housing, measuring approximately 10 × 9,5 × 10,5 cm, equipped with: — a liquid crystal colour display with a diagonal measurement of the screen of approximately 9 cm (3,5 inches), an aspect ratio of 4:3 and a resolution of 320 × 240 pixels, — loudspeakers, — a microphone, — an alarm clock, — a memory of 2 GB, — a memory card reader, — a USB interface, — an interface for an FM antenna, — control buttons. The apparatus is capable of performing the following functions: — radio-broadcast reception, — voice recording, — sound reproduction, — still and video image reproduction, — alarm clock. (*) See image.	8527 13 99	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XVI and by the wording of CN codes 8527, 8527 13 and 8527 13 99. As the apparatus is designed for the purpose of performing several functions of Chapter 85 it is to be classified, by virtue of Note 3 to Section XVI, as being that apparatus which performs the principal function. In view of the objective characteristics of the apparatus, namely the design and conception, its intended use is that of an alarm clock radio. The sound reproduction is considered secondary. In view of the small size and low resolution of the screen, the still and video image reproduction is also considered secondary. The apparatus' principal function is therefore that of a reception apparatus for radio-broadcasting, combined in the same housing with sound recording or reproducing apparatus and a clock. The apparatus is therefore to be classified under CN code 8527 13 99 as other radio-broadcast receivers capable of operating without an external source of power, combined with sound recording or reproducing apparatus.

(*) The image is purely for information.



COMMISSION IMPLEMENTING REGULATION (EU) No 300/2012
of 2 April 2012
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

(5) The Customs Code Committee has not issued an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 2 April 2012.

For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission

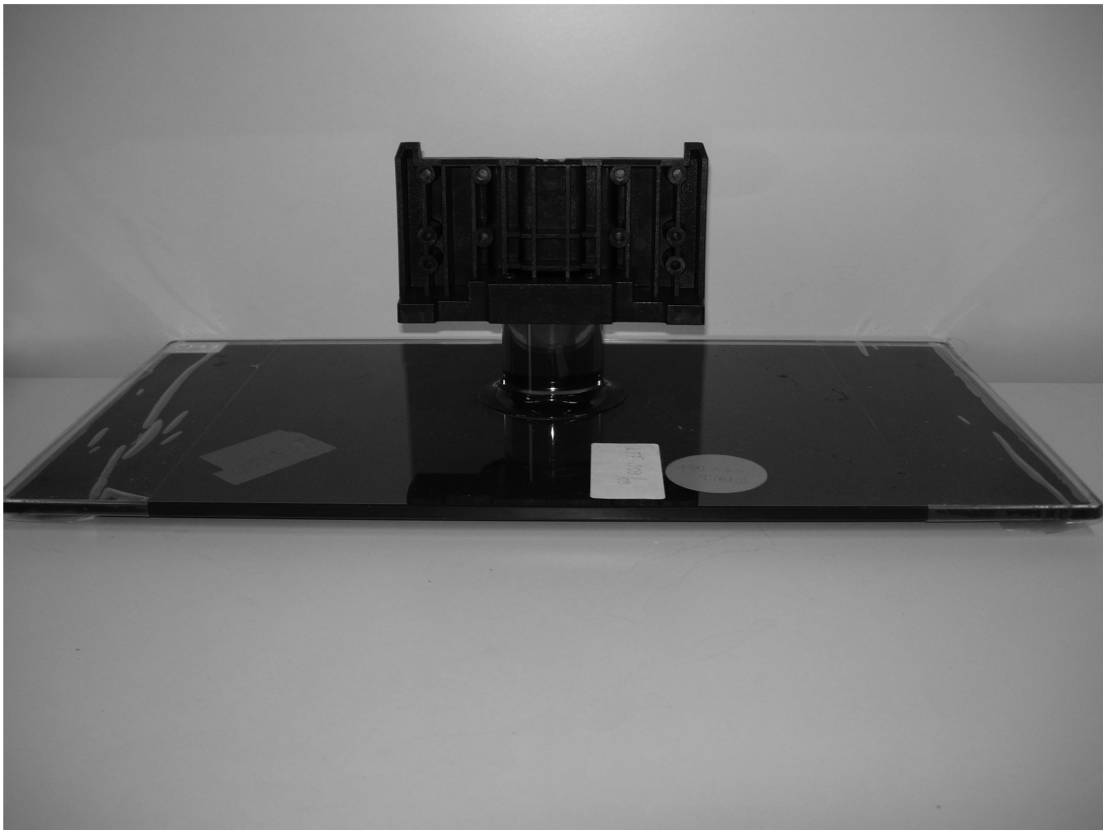
⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
A stand of rectangular shape measuring approximately 55 × 31 cm, made of glass of fused silica, of a thickness of 8 mm. The stand includes a 5 cm high glass cylinder with a diameter of 5,5 cm and a specially designed mounting bracket. A console made of plastics of rectangular shape measuring approximately 17 × 10 × 2,5 cm is attached to the mounting bracket. The stand is used as a support for a television set to be placed, for example, on a table. (*) See the image.	7020 00 10	Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 7020 00 and 7020 00 10. The presence of the stand is not indispensable for the functioning of a television set of heading 8528. Classification under heading 8529 as a part suitable for use solely or principally with the apparatus of headings 8525 to 8528 is therefore excluded. The stand is therefore to be classified according to the constituent material which gives it its essential character (glass). The article is therefore to be classified under CN code 7020 00 10 as other articles of glass of fused silica.

(*) The image is purely for information.



COMMISSION IMPLEMENTING REGULATION (EU) No 301/2012
of 2 April 2012
concerning the classification of certain goods in the Combined Nomenclature

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific provisions of the Union, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column (1) of the table set out in the Annex should be classified under the CN code indicated in column (2), by virtue of the reasons set out in column (3) of that table.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 2 April 2012.

For the Commission,
On behalf of the President,
Algirdas ŠEMETA
Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

ANNEX

Description of the goods	Classification (CN code)	Reasons
(1)	(2)	(3)
New three-wheeled motor vehicle, rear wheel driven, for the transport of persons, with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity of 998 cm³. The front wheels are approximately 130 cm apart. The vehicle does not have a differential. The vehicle has a motor car type steering system. It steers using the handlebar with two grips incorporating the controls. The vehicle has five forward gears and a reverse gear.	8703 21 10	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8703, 8703 21 and 8703 21 10. Three-wheeled vehicles are classified under heading 8711 provided they do not have the character of motor vehicles of heading 8703 (see also the HS Explanatory Notes to heading 8711, fifth paragraph). Heading 8703 includes lightweight three-wheeled vehicles of simpler construction, such as those fitted with a motorcycle engine and wheels, which, by virtue of their mechanical structure, possess the characteristics of conventional motor cars, that is a motor car type steering system (see also the HS Explanatory Notes to heading 8703, second paragraph). As the vehicle has a motor car type steering system, a characteristic of conventional motor vehicles covered by heading 8703, classification under heading 8711 is excluded. The vehicle is therefore to be classified as a new motor vehicle principally designed for the transport of persons under CN code 8703 21 10.

COMMISSION IMPLEMENTING REGULATION (EU) No 302/2012**of 4 April 2012****amending Implementing Regulation (EU) No 543/2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors**

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⁾, and in particular Articles 103h and 127 in conjunction with Article 4 thereof,

Whereas:

- (1) Regulation (EC) No 1234/2007 establishes a common organisation of agricultural markets which includes the fruit and vegetables and processed fruit and vegetables sectors. Pursuant to Article 103a of Regulation (EC) No 1234/2007 read in conjunction with Article 125e of that Regulation, Union aid may be granted to producer groups formed in Member States that recently acceded to the European Union, in the outermost regions of the Union and in the smaller Aegean Islands. That aid is to encourage the formation of producer groups, facilitate their administrative operation and enable producer groups to meet the recognition criteria for producer organisations, which are the basic actors of the fruit and vegetables sector.
- (2) Articles 36 to 49 of Commission Implementing Regulation (EU) No 543/2011 ⁽²⁾ lay down the detailed rules in respect of producer groups. In order to prevent situations in which operators artificially create the conditions for obtaining payments of Union aid, with a view to obtain advantages contrary to the objectives of Regulation (EC) No 1234/2007, it is appropriate to require Member States to lay down rules in order to prevent producers from shifting from one producer group to another with the aim to benefit from Union aid for a longer period than the period referred to in Article 125e(1) of Regulation (EC) No 1234/2007 and to prevent Member States from recognising legal entities or clearly defined parts of such entities as producer groups, where such entities could already meet the recognition criteria for producer organisations.
- (3) Article 125e(1) of Regulation (EC) No 1234/2007 requires producer groups to present a phased recognition plan to the competent Member State. Member States

should assess whether the duration of the proposed recognition plan is not unduly long and demand modifications where a producer group could meet the recognition criteria for producer organisations before the end of the transitional period referred to in Article 125e(1).

- (4) Article 39(2) of Implementing Regulation (EU) No 543/2011 provides that Member States shall set the conditions under which producer groups may request changes to plans during their implementation. In order to ensure a sound application of that Regulation and in the interest of financial predictability and sound budgetary management, rules should be laid down providing for a maximum percentage for a proposed increase of the expenditure under an approved recognition plan. However, different limits should apply to recognition plans approved before the entry into force of this Regulation and in the case of mergers of producer groups.
- (5) For reasons of budgetary discipline and in order to optimise the allocation of financial resources in a sustainable and effective way, it is appropriate to provide a ceiling for the Union financing of the aid to cover part of the investments referred to in Article 103a(1)(b) of Regulation (EC) No 1234/2007. For reasons of financial security and legal certainty, a list of investments which may not be covered by recognition plans should be drawn up.
- (6) For reasons of budgetary discipline, it is also necessary to provide for a ceiling for the expenditure to be financed by the European Agricultural Guarantee Fund (EAGF) in relation to the aid referred to in Article 103a(1) of Regulation (EC) No 1234/2007 and to set up a notification system, under which the Member States inform the Commission in respect of the financial implications of the recognition plans prior to their approval.
- (7) In order to prevent any unjustified enrichment where a member leaves its producer group and benefits from investments on its own holding, rules should be laid down in order to allow the producer group to recover the investment or the residual value of the investment where the amortisation period has not yet expired.
- (8) For the sake of financial predictability and budgetary forecasting, it is appropriate to provide for more detailed rules on notifications from Member States to the Commission regarding financial implications of recognition plans of producer groups.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

- (9) Checks should be conducted in such a manner as to permit Member States to react swiftly to any possible abuse which implies a risk for the Union budget. For that purpose, it is appropriate to reinforce checks where significant irregularities have been revealed.
- (10) Article 103e of Regulation (EC) No 1234/2007 provides that in regions of the Member States where the degree of organisation of producers is particularly low, Member States may be authorised by the Commission, on a duly substantiated request, to pay producer organisations national financial assistance equal to a maximum of 80 % of the financial contributions referred to in Article 103b(1)(a) of that Regulation.
- (11) Pursuant to Article 103e of Regulation (EC) No 1234/2007, in regions of Member States where producer organisations market less than 15 % of the fruit and vegetable production and whose fruit and vegetable production represents at least 15 % of their total agricultural output, the national assistance may be reimbursed by the Union at the request of the Member State concerned.
- (12) Article 92(2) of Implementing Regulation (EU) No 543/2011 provides that the Commission is to approve or refuse the request for the authorisation to grant national financial assistance within three months of its submission. If the Commission does not reply within that period, the request is deemed to have been approved. However, the period of three months may be suspended where a Member State makes an incomplete request.
- (13) Experience has shown that the procedure for the adoption and notification to the Member State of a Commission Decision often requires more than three months and that the actual date from which a request is to be deemed approved cannot always be identified. For the sake of legal certainty, it is appropriate to provide that the Commission approves or refuses the request by way of a formal Decision.
- (14) Article 103e of Regulation (EC) No 1234/2007 limits the proportion of national financial assistance which may be authorised to a maximum of 80 % of the financial contributions made by the members of a producer organisation or by the producer organisation itself. Article 95(4) of Implementing Regulation (EU) No 543/2011 limits the proportion of Union reimbursement of national financial assistance to 60 % of the national financial assistance granted to the producer organisations. For reasons of budgetary discipline, it is necessary to provide for a ceiling to the amount of national financial assistance that may be reimbursed by the Union by reference to the maximum amount of the Union financial assistance which may be granted to operational funds set up by producer organisations.
- (15) For the sake of simplification, it is appropriate to fine-tune the procedure for the notification of producer prices of fruit and vegetables in the internal market on a voluntary basis.
- (16) Implementing Regulation (EU) No 543/2011 should therefore be amended accordingly.
- (17) In order to ensure that legitimate expectations of producers are respected, it is necessary to provide that certain amendments made by this Regulation do not apply to recognition plans which have been accepted before the date of entry into force of this Regulation. However, in order to control budgetary expenditure and to ensure a level-playing field between economic operators, it should be provided that recognition plans that have been accepted before the entry into force of this Regulation should be treated in the same way as recognition plans adopted after the entry into force of this Regulation, with respect to the Union contribution to aid referred to in Article 103a(1)(b) of Regulation (EC) No 1234/2007, where the producer groups concerned have not yet committed themselves financially or have not yet entered into legally binding arrangements with third parties as regards the relevant investments prior to the date of entry into force of this Regulation.
- (18) In order to ensure a smooth transition to the new rules applicable to Union reimbursement of national financial assistance, the relevant amendment made by this Regulation should not apply to situations where the request for authorisation to pay national financial assistance has been approved by the Commission prior to the entry into force of this Regulation, but where the Commission has not yet decided on the reimbursement. In such situations Article 95(4) of Implementing Regulation (EU) No 543/2011 should continue to apply as not amended by this Regulation.
- (19) In order to control Union expenditure for the fruit and vegetables sector, this Regulation should enter into force on the day of its publication.
- (20) The Management Committee for the Common Organisation of Agricultural Markets has not delivered an opinion within the time limit set by its Chair,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Implementing Regulation (EU) No 543/2011

Implementing Regulation (EU) No 543/2011 is amended as follows:

- (1) In Article 36(2), the following point (e) is added:
- ‘(e) the rules to avoid that a producer benefits from Union aid for producer groups for more than 5 years.’
- (2) In Article 37, the following second paragraph is added:
- ‘The investments referred to in point (c) of the first paragraph shall not include investments listed in Annex Va.’

(3) Article 38 is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘1. The competent authority of the Member State shall take one of the decisions referred to in paragraph 3 within three months of receipt of a draft recognition plan accompanied by all supporting documents. Member States may provide for a shorter deadline.’

(b) Paragraph 3 is replaced by the following:

‘3. Following the conformity checks referred to in Article 111, the competent authority of the Member State shall, as appropriate:

- (a) provisionally accept the plan and grant preliminary recognition;
- (b) request changes to the plan, including changes in relation to its duration. In particular, the Member State shall assess whether the phases proposed are not unduly long and demand modifications where a producer group could meet the recognition criteria for producer organisations before the end of the five-year period referred to in the third subparagraph of Article 125e(1) of Regulation (EC) No 1234/2007;
- (c) reject the plan, especially in the case where the legal entities or clearly defined parts of such entities applying for preliminary recognition as producer groups already meet the criteria for recognition as a producer organisation.

Provisional acceptance may be granted, where necessary, only if the changes requested under point (b) have been incorporated in the plan.’

(c) The following paragraphs 4, 5 and 6 are added:

‘4. The competent authority of the Member State shall notify the Commission, by 1 July in any given year, of the decisions provisionally accepting recognition plans and the financial implications of those plans, using the templates set out in Annex Vb.

5. Once the allocation coefficients referred to in the second subparagraph of Article 47(4) have been set, the competent authority of the Member State shall provide the producer groups concerned with an opportunity to amend or withdraw their recognition plan. Where a producer group does not withdraw its plan the competent authority shall accept such plan definitively subject to such amendments as the competent authority may deem necessary.

6. The competent authority of the Member State shall notify the legal entity or clearly defined part of a legal entity of decisions referred to in paragraphs 3 and 5.’

(4) In Article 39, paragraph 2 is replaced by the following:

‘2. Member States shall set the conditions under which producer groups may request changes to plans during their implementation. Those requests shall be accompanied by all the necessary supporting documents.

Member States shall determine the conditions under which recognition plans may be amended during an annual or semestrial segment without prior approval by the competent authority of the Member State. Those changes shall only be eligible for aid if they are communicated by the producer group to the competent authority of the Member State without delay.

Producer groups may be authorised by the competent authority of the Member State, during a given year and in respect of that year, to increase the total amount of expenditure laid down in a recognition plan by a maximum of 5 % of the amount initially approved, or to decrease it by a maximum percentage to be fixed by Member States, in both cases provided that the overall objectives of the recognition plan are maintained and provided that the overall Union expenditure at the level of the Member State concerned does not exceed the amount of Union contribution allocated to that Member State in accordance with Article 47(4).

In the case of mergers of producer groups as referred to in Article 48, the limit of 5 % shall apply to the total amount of expenditure laid down in the recognition plans of the merging producer groups.’

(5) In Article 44, the following third paragraph is added:

‘Investments may be implemented on individual holdings and/or premises of producer members of the producer group, provided that they contribute to the objectives of the recognition plan. If the member leaves the producer group, Member States shall ensure that the investment or its residual value, where its amortisation period has not yet expired, is recovered.’

(6) Article 47 is replaced by the following:

‘Article 47

Union contribution

1. Subject to paragraph 4 of this Article, the Union contribution towards aid as referred to in Article 103a(1)(a) of Regulation (EC) No 1234/2007 shall amount to:

- (a) 75 % in the regions eligible under the Convergence Objective; and
- (b) 50 % in other regions.

The Member State may pay its national aid as a flat-rate payment. The aid application shall not be required to include evidence as to the use of the aid.

2. The Union contribution towards aid as referred to in Article 103a(1)(b) of Regulation (EC) No 1234/2007, expressed in terms of a capital grant or capital-grant equivalent, shall not exceed, as a percentage of eligible investment costs:

- (a) 50 % in the regions eligible under the Convergence Objective; and
- (b) 30 % in other regions.

The Member States concerned shall undertake to contribute at least 5 % of eligible investment costs.

Beneficiaries of aid towards eligible investment costs shall pay at least:

- (a) 25 % in the regions eligible under the Convergence Objective; and
- (b) 45 % in other regions.

3. Subject to paragraph 4 of this Article, the Union contribution to the aid referred to in Article 103a(1)(b) of Regulation (EC) No 1234/2007 shall be determined for each producer group on the basis of its value of marketed production and shall be subject to the following rules:

- (a) in respect of producer groups in Member States which acceded to the European Union on 1 May 2004 or thereafter, no ceiling shall apply in the first two years of implementation of their recognition plan, and a ceiling of 70 %, 50 % and 20 % of the value of the marketed production shall apply in the third, fourth and fifth year of implementation of their recognition plan respectively;
- (b) in respect of producer groups in the outermost regions of the Union as referred to in Article 349 of the Treaty or in the smaller Aegean Islands as referred to in Article 1(2) of Council Regulation (EC) No 1405/2006 (*), the Union contribution shall be capped at 25 %, 20 %, 15 %, 10 % and 5 % of the value of the marketed production in the first, second, third, fourth and fifth year of implementation of their recognition plan respectively.

4. The total expenditure for the Union contribution towards aid as referred to in Article 103a of Regulation (EC) No 1234/2007 shall not exceed EUR 10 000 000 per calendar year.

On the basis of the notifications referred to in Article 38(4) the Commission shall set allocation coefficients and establish the total available Union contribution per Member State per year on the basis of those coefficients. If for any year the total amount resulting from the notifications referred to in Article 38(4) does not exceed the maximum amount of the Union contribution, the allocation coefficient shall be set at 100 %.

The Union contribution shall be granted in accordance with the allocation coefficient referred to in the second subparagraph. No Union contribution shall be granted in respect of recognition plans that were not notified in accordance with Article 38(4).

The exchange rate applicable to the Union contribution per Member State shall be the rate most recently published by the European Central Bank prior to the date provided for in Article 38(4).

(*) OJ L 265, 26.9.2006, p. 1.'

(7) In Article 92, paragraph 2 is replaced by the following:

'2. The Commission shall approve or refuse the request by way of a Decision within three months. That period shall begin on the day following the day on which the Commission received a complete request. If the Commission does not demand additional information within the three-month period, the request shall be deemed complete.'

(8) In Article 95(4), the following sentence is added:

'The amount reimbursed shall not exceed 48 % of the financial assistance referred to in Article 103b(1)(b) of Regulation (EC) No 1234/2007.'

(9) In Article 97, point (c) is replaced by the following:

'(c) by 31 January in any given year, the financial amounts corresponding to each forthcoming annual period of implementation of the recognition plans including the current implementing year. Approved or estimated amounts shall be provided. The notification shall include the following information for each producer group and each annual forthcoming period of implementation of the plan:

(i) the total amount of the annual period of implementation of the recognition plan, the contributions from the Union, the Member States and the producer groups and/or members of the producer groups;

(ii) a breakdown between the aid referred to in, respectively, Article 103a(1)(a) and (b) of Regulation (EC) No 1234/2007.'

(10) In Article 98, paragraph 4 is replaced by the following:

'4. The notifications referred to in paragraph 3 shall be made in accordance with models made available to the Member States by the Commission. Those models shall not apply until the Management Committee for the Common Organisation of Agricultural Markets has been informed.'

(11) In Article 112, the following paragraphs 3a and 3b are inserted:

‘3a. The results of the on-the-spot checks referred to in paragraph 2 shall be evaluated to establish whether any problems encountered are of a systemic character, pointing to the likelihood of irregularities in respect of similar actions, beneficiaries or bodies. The evaluation shall also identify the causes of such situations, any further examination which may be required and the necessary corrective and preventive action.

If the checks reveal significant irregularities in a region or part of a region or for a specific producer group, the Member State shall carry out additional checks during the year concerned and shall increase the percentage of corresponding applications to be checked the following year.

3b. The Member State shall determine which producer groups are to be subject to on-the-spot checks on the basis of a risk analysis.

The risk analysis shall in particular take account of:

- (a) the amount of aid;
- (b) the findings of the checks in previous years;
- (c) an element to ensure randomisation; and
- (d) other parameters to be determined by Member States.’

(12) Annex Va, as set out in Annex I to this Regulation, is inserted.

(13) Annex Vb, as set out in Annex II to this Regulation, is inserted.

Article 2

Transitional provisions

1. Points (2), (3)(b), and (12) of Article 1 of this Regulation shall not apply to recognition plans which have been accepted before the date of entry into force of this Regulation.

2. Point (6) of Article 1 of this Regulation, as regards Article 47(3) and (4) of Implementing Regulation (EU) No 543/2011, shall not apply to recognition plans which have been accepted before the date of entry into force of this Regulation and in respect of which either:

- (a) the producer group concerned has already committed itself financially or has entered into legally binding arrangements

with third parties as regards the relevant investments referred to in Article 103a(1)(b) of Regulation (EC) No 1234/2007 prior to the date of entry into force of this Regulation, or

- (b) the recognition plan concerned covers only aid referred to in Article 103a(1)(a) of Regulation (EC) No 1234/2007.

3. For recognition plans accepted before the date of entry into force of this Regulation but in respect of which the producer group concerned has not yet committed itself financially or has not as yet entered into legally binding arrangements with third parties as regards the relevant investments prior to the date of entry into force of this Regulation the following rules shall apply:

- (a) by 1 July 2012 the competent authority of the Member State shall notify the Commission of recognition plans to which this paragraph applies;
- (b) when setting the allocation coefficients in accordance with the second subparagraph of Article 47(4) of Implementing Regulation (EU) No 543/2011 the Commission shall take into account the notifications received pursuant to point (a) of this paragraph. The Union contribution towards the aid referred to in Article 103a(1)(b) of Regulation (EC) No 1234/2007 shall be granted in accordance with those allocation coefficients;
- (c) the allocation coefficients set in accordance with the second subparagraph of Article 47(4) of Implementing Regulation (EU) No 543/2011 shall not apply in respect of the aid referred to in Article 103a(1)(a) of Regulation (EC) No 1234/2007;
- (d) once the allocation coefficients referred to in the second subparagraph of Article 47(4) of Implementing Regulation (EU) No 543/2011 have been set, the competent authority of the Member State shall provide the producer groups to which this paragraph applies with an opportunity to amend or withdraw their recognition plan. In the case of withdrawal, expenditure incurred by the producer group after the initial acceptance of the plan in respect of its formation and administration shall be reimbursed by the Union up to an amount not exceeding 3 % of the aid that the producer group would have been entitled to under Article 103a(1)(a) of Regulation (EC) No 1234/2007 if their recognition plan had been implemented.

4. Point (8) of Article 1 shall not apply to cases where the request for authorisation to pay national financial assistance has been approved by the Commission in accordance with Article 92(2) of Implementing Regulation (EU) No 543/2011 prior to the date of entry into force of this Regulation, but where the Commission has not yet decided on Union reimbursement of the national financial assistance in accordance with Article 95 of Implementing Regulation (EU) No 543/2011.

*Article 3***Entry into force**

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

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

Done at Brussels, 4 April 2012.

For the Commission
The President
José Manuel BARROSO

ANNEX I

'ANNEX Va

INELIGIBLE INVESTMENTS REFERRED TO IN THE SECOND PARAGRAPH OF ARTICLE 37

1. Investments in means of transport to be used for marketing or distribution by the producer group, with the exception of:
 - (a) investments in means of internal transport; at the moment of the purchase, the producer group shall duly justify to the concerned Member State that the investments shall only be used for internal transport;
 - (b) additional on-the-truck facilities for cold-storage or controlled atmosphere transport.
 2. Purchase of land costing more than 10 % of all the eligible expenditure on the operation concerned and not built on except where purchase is necessary to carry out an investment included in the recognition plan;
 3. Second hand equipment which has been purchased with Union or national aid within the seven previous years.
 4. Hire, unless the competent authority of the Member State accepts hire as an economically justified alternative to purchase.
 5. Real estate purchase which has been purchased with Union or national aid within the 10 previous years.
 6. Investments in shares.
 7. Investments or similar types of actions outside the holdings and/or premises of the producer group or its members.'
-

Templates for notification per producer group as referred to in Article 38(4)

Notification in accordance with Article 38 (4) of Commission Regulation (EU) No 543/2011

Member State: Total number of PG proposed for recognition: Currency: Date:

ID (if already attributed)	Name	Number of members	Years of transition period	Years of implementation	Aid to encourage formation and facilitate administrative operation. Article 103a (1)(a) of Regulation (EC) No 1234/2007			Aid to cover part of the investments. Article 103a (1)(b) of Regulation (EC) No 1234/2007				Value of the marketed production (Art 42 Reg 543/2011)	Total Union contribution	Total MS contribution	Total PG	
					Total	Union contribution	Member State contribution	Total expenditure	Union contribution	Member State contribution	producer group and members of the producer group contribution					
					(1) = (2) + (3)	(2)	(3)	(4) = (5) + (6) + (7)	(5)	(6)	(7)					(8)
			1/5	201...												
			2/5	201...												
			3/5	201...												
			4/5	201...												
			5/5	201...												
				Total												

One different Excel sheet shall be completed for every Producer Group (PG)

Notification in accordance with Article 38 (4) of Commission Regulation (EU) No 543/2011

Member State:

Total number of PG proposed for recognition:

Currency: National currency

Date:

Number of PGs proposed for recognition	Years	Aid to encourage formation and facilitate administrative operation, Article 103a (1)(a) of Regulation (EC) No 1234/2007			Aid to cover part of the investments, Article 103a (1)(b) of Regulation (EC) No 1234/2007				Value of the marketed production (Art 42 Reg 543/2011)	Total Union contribution	Total MS contribution	Total PG
		Total	Union contribution	Member State contribution	Total expenditure	Union contribution	Member State contribution	producer group and members of the producer group contribution				
	201...	(1) = (2) + (3)	(2)	(3)	(4) = (5) + (6) + (7)	(5)	(6)	(7)	(8)	(9) = (2) + (5)	(10) = (3) + (6)	(11) = (1) + (4)
	201...											
	201...											
	201...											
	201...											
	201...											
	Total											

This Excel sheet refers to all Producer Groups proposed for recognition per Member State'

COMMISSION IMPLEMENTING REGULATION (EU) No 303/2012**of 4 April 2012****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 Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multi-lateral trade negotiations, the criteria whereby the

Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.

- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

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

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

Done at Brussels, 4 April 2012.

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

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

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

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	CR	48,1
	IL	135,3
	MA	71,2
	TN	102,9
	TR	107,4
	ZZ	93,0
0707 00 05	JO	225,1
	TR	163,4
	ZZ	194,3
0709 91 00	EG	68,9
	ZZ	68,9
0709 93 10	JO	225,1
	MA	46,5
	TR	173,3
	ZZ	148,3
0805 10 20	EG	49,3
	IL	76,9
	MA	51,3
	TN	74,5
	TR	61,6
	ZA	47,4
	ZZ	60,2
0805 50 10	EG	69,2
	MX	39,8
	TR	57,0
	ZZ	55,3
0808 10 80	AR	87,5
	BR	84,3
	CA	120,7
	CL	93,0
	CN	91,1
	MA	49,8
	MK	31,8
	US	165,2
	UY	72,9
	ZA	85,0
0808 30 90	ZZ	88,1
	AR	100,2
	CL	108,7
	CN	67,1
	US	107,0
	ZA	118,1
	ZZ	100,2

⁽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 IMPLEMENTING REGULATION (EU) No 304/2012

of 4 April 2012

fixing the allocation coefficient to be applied to applications for import licences lodged from 23 to 30 March 2012 under subquota I in the context of the tariff quota opened by Regulation (EC) No 1067/2008 for common wheat of a quality other than high quality

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 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences ⁽²⁾, and in particular Article 7(2) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1067/2008 ⁽³⁾ opens an overall annual import tariff quota of 3 112 030 tonnes of common wheat of a quality other than high quality. That quota is divided into four subquotas.
- (2) Article 3(1) of Regulation (EC) No 1067/2008 sets subquota I (order number 09.4123) at 572 000 tonnes for the period 1 January to 31 December 2012.
- (3) The notification made in accordance with Article 4(3) of Regulation (EC) No 1067/2008 shows that the applications lodged from 23 March 2012 at 13.00 to 30 March 2012 at 13.00 (Brussels time) in accordance with Article 4(1), subparagraph 2, of that Regulation

exceed the quantities available. The extent to which import licences may be issued should therefore be determined and the allocation coefficient to be applied to the quantities applied for should be fixed.

- (4) No further import licences should be issued under subquota I as referred to in Regulation (EC) No 1067/2008 for the current quota period.
- (5) In order to ensure sound management of the procedure of issuing import licences, the present Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

1. Each import licence application under subquota I referred to in Article 3(1) of Regulation (EC) No 1067/2008 and lodged from 23 March 2012 at 13.00 to 30 March 2012 at 13.00 (Brussels time) shall give rise to the issue of a licence for the quantities applied for, multiplied by an allocation coefficient of 16,678529 %.
2. The issue of licences for the quantities applied for from 30 March 2012 at 13.00 (Brussels time) falling within subquota I as referred to in Article 3(1) of Regulation (EC) No 1067/2008 is hereby suspended for the current quota period.

Article 2

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

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

Done at Brussels, 4 April 2012.

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

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 238, 1.9.2006, p. 13.

⁽³⁾ OJ L 290, 31.10.2008, p. 3.

DECISIONS

COMMISSION DECISION

of 4 April 2012

terminating the anti-dumping proceeding concerning imports of sodium cyclamate originating in the People's Republic of China, limited to two Chinese exporting producers Fang Da Food Additive (Shen Zhen) Limited and Fang Da Food Additive (Yang Quan) Limited

(2012/185/EU)

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 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 3 January 2011, the European Commission ('Commission') received a complaint pursuant to Article 5 of the Basic Regulation, alleging that imports of sodium cyclamate, originating in the People's Republic of China ('PRC') and produced by Fang Da Food Additive (Shen Zhen) Limited and Fang Da Food Additive (Yang Quan) Limited ('the Fang Da group') are being dumped and are thereby contributing to the material injury to the Union industry.
- (2) The complaint was lodged by Productos Aditivos SA ('the complainant'), the sole producer in the Union of sodium cyclamate, representing 100 % of the Union production thereof.
- (3) On 17 February 2011, after consultation of the Advisory Committee, the Commission announced by a notice published in the *Official Journal of the European Union* ⁽²⁾, the initiation of an anti-dumping proceeding concerning imports of sodium cyclamate originating in the PRC, limited to the Fang Da group.

- (4) The Commission sent questionnaires to the complainant, to the Fang Da group and to known importers and users. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

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

B. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

- (6) By a letter of 17 January 2012 to the Commission, the complainant formally withdrew its complaint.
- (7) In accordance with Article 9(1) of the basic Regulation, the proceeding may be terminated where the complaint is withdrawn, unless such termination would not be in the Union interest.
- (8) It is considered that the present proceeding should be terminated since the investigation had not brought to light any considerations showing that such termination would not be in the Union interest. Interested parties were informed accordingly and were given the opportunity to comment. No comments were received indicating that such termination would not be in the Union interest.
- (9) The Commission therefore concludes that the anti-dumping proceeding concerning imports of sodium cyclamate originating in the PRC, limited to the Fang Da group should be terminated.
- (10) The review based on Article 2(3) of Council Regulation (EC) No 1515/2001 ⁽³⁾ can therefore also be terminated,

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 50, 17.2.2011, p. 9.

⁽³⁾ OJ L 201, 26.7.2001, p. 10.

HAS ADOPTED THIS DECISION:

Article 1

The anti-dumping proceeding concerning imports of sodium cyclamate originating in the People's Republic of China, limited to two Chinese exporting producers Fang Da Food Additive (Shen Zhen) Limited and Fang Da Food Additive (Yang Quan) Limited, is hereby terminated.

Article 2

The review based on Article 2(3) of Regulation (EC) No 1515/2001 is hereby terminated.

Article 3

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

Done at Brussels, 4 April 2012.

For the Commission

The President

José Manuel BARROSO

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