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Price: EUR 4

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⁽¹⁾ Text with EEA relevance

EN

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II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 1203/2013

of 26 November 2013

implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 ⁽¹⁾, and in particular Article 46 (2) thereof,

Whereas:

(1) On 23 March 2012, the Council adopted Regulation (EU) No 267/2012 concerning restrictive measures against Iran.

(2) By its judgments of 16 September 2013 in Case T-489/10 ⁽²⁾, the General Court of the European Union annulled the Council's decisions to include Islamic Republic of Iran Shipping Lines, Bushehr Shipping Co. Ltd, Hafize Darya Shipping Lines (HDSL), Irano – Misr Shipping Co., Irinvestship Ltd, IRISL (Malta) Ltd, IRISL Club, IRISL Europe GmbH, IRISL Marine Services and Engineering Co., ISI Maritime Ltd, Khazar Shipping Lines, Leadmarine, Marble Shipping Ltd, Safiran Payam Darya Shipping Lines (SAPID), Shipping Computer Services Co., Soroush Saramin Asatir Ship Management, South Way Shipping Agency Co. Ltd and Valfajr 8th Shipping Line Co. on the list of persons and entities subject to restrictive measures in Annex IX to Regulation (EU) No 267/2012.

(3) Islamic Republic of Iran Shipping Lines, Bushehr Shipping Co. Ltd, Hafize Darya Shipping Lines (HDSL), Irano – Misr Shipping Co., Irinvestship Ltd, IRISL (Malta) Ltd, IRISL Europe GmbH, IRISL Marine Services and Engineering Co., ISI Maritime Ltd, Khazar Shipping Lines, Marble Shipping Ltd, Safiran Payam Darya Shipping Lines (SAPID), Shipping Computer Services Co., Soroush Saramin Asatir Ship Management, South Way Shipping Agency Co. Ltd and Valfajr 8th Shipping Line Co. should be included again on the list of persons and entities subject to restrictive measures in Annex IX to Regulation (EU) No 267/2012, on the basis of new statements of reasons concerning each of those entities.

(4) The identifying information in relation to an entity on the list of persons and entities subject to restrictive measures in Annex IX to Regulation (EU) No 267/2012 should be amended.

(5) Three entities should be removed from the list of persons and entities subject to restrictive measures in Annex IX to Regulation (EU) No 267/2012.

(6) In order to ensure that the measures provided for in this Regulation are effective, it should enter into force on the date of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Annex IX to Regulation (EU) No 267/2012 is hereby amended as set out in the Annex to this Regulation.

⁽¹⁾ OJ L 88, 24.3.2012, p. 1.

⁽²⁾ Judgement of 16 September 2013 in Case T-489/10, *Islamic Republic of Iran Shipping Lines v. Council of the European Union*.

Article 2

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

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

Done at Brussels, 26 November 2013.

For the Council
The President
L. LINKEVIČIUS

ANNEX

I. The entities listed below are added to the list set out in Annex IX to Regulation (EU) No 267/2012

III. **Islamic Republic of Iran Shipping Lines (IRISL)**

B. *Entities*

	Name	Identifying information	Reasons	Date of listing
1.	Islamic Republic of Iran Shipping Lines (IRISL)	No. 37, Aseman Tower (Sky Tower), Sayyade Shirazee Square, Pasdaran Ave., PO Box 19395-1311, Tehran, Iran; IRISL IMO Nrs: 9051624; 9465849; 7632826; 7632814; 9465760; 8107581; 9226944; 7620550; 9465863; 9226956; 7375363; 9465758; 9270696; 9193214; 8107579; 9193197; 8108559; 8105284; 9465746; 9346524; 9465851; 8112990	IRISL has been involved in the shipment of arms-related materiel from Iran in violation of paragraph 5 of UNSC Resolution 1747(2007). Three clear violations were reported to the UN Security Council Iran Sanctions Committee in 2009.	27.11.2013
2.	Bushehr Shipping Company Limited (a.k.a. Bimeh Iran)	143/1 Tower Road Sliema, SLM 1604, Malta; Registration No. C 37422; c/o Hafiz Darya Shipping Company, No. 60, Ehteshamiyeh Square, 7th Neyestan Street, Pasdaran Avenue, Tehran, Iran; IMO Nr. 9270658	Bushehr Shipping Company Limited is owned by IRISL.	27.11.2013
3.	Hafiz Darya Shipping Lines (HDSL) (a.k.a. HDS Lines)	No. 60, Ehteshamiyeh Square, 7th Neyestan Street, Pasdaran Avenue, Tehran, Iran.	HDSL has taken over as beneficial owner a number of Islamic Republic of Iran Shipping Line's (IRISL) vessels. Accordingly, HDSL is acting on behalf of IRISL.	27.11.2013
4.	Irano Misr Shipping Company (a.k.a. Nefertiti Shipping)	6, El Horeya Rd., El Attarein, Alexandria, Egypt; Inside Damietta Port, New Damietta City, Damietta, Egypt; 403, El NahdaSt., Port Said, Port Said, Egypt.	Irano Misr Shipping Company as agent for IRISL in Egypt provides essential services to IRISL.	27.11.2013
5.	Irinvestship Ltd	10 Greycoat Place, London SW1P 1SB, United Kingdom; Company Registration Number # 41101 79	Irinvestship Ltd is owned by IRISL.	27.11.2013
6.	IRISL (Malta) Ltd	Flat 1, 143 Tower Road, Sliema SLM 1604, Malta; Registration No. C 33735	IRISL (Malta) Ltd is majority owned by IRISL, through IRISL Europe GmbH, which is in turn owned by IRISL. Accordingly, IRISL Malta Ltd is controlled by IRISL.	27.11.2013

	Name	Identifying information	Reasons	Date of listing
7.	IRISL Europe GmbH (Hamburg)	Schottweg 5, 22087 Hamburg, Germany; V.A.T. Number DE217283818 Registration No. HRB 81573	IRISL Europe GmbH (Hamburg) is owned by IRISL.	27.11.2013
8.	IRISL Marine Services and Engineering Company	Sarbandar Gas Station, PO Box 199, Bandar Imam Khomeini, Iran; Karim Khan Zand Avenue (or: Karimkhan Avenue), Iran Shahr Shomai (or: Northern Iranshahr Street), No 221, Tehran, Iran; Shahaid Rajaei Port Road, Kilometer of 8, Before Tavanir Power Station, Bandar Abbas, Iran.	IRISL Marine Services and Engineering Company is controlled by IRISL.	27.11.2013
9.	ISI Maritime Limited (Malta)	147/1 St. Lucia Street, Valetta, Vlt 1185, Malta; Registration No. C 28940 c/o IranoHind Shipping Co. Ltd., Mehrshad Street, Sedaghat St., opp. Park Mellat vali-e-asr Ave., Tehran, Iran	ISI Maritime Limited (Malta) is wholly owned by Irano Hind Shipping Company which is in turn majority owned by IRISL. Accordingly, ISI Maritime Limited (Malta) is controlled by IRISL. Irano Hind Shipping Company is designated by the UN as owned, controlled, or acting on behalf of IRISL.	27.11.2013
10.	Khazar Shipping Lines (Bandar Anzali)	End of Shahid Mostafa, Khomeini St., Tohid Square, Bandar Anzali 1711-324, Iran, P.O. Box 43145.	Khazar Shipping Lines is owned by IRISL.	27.11.2013
11.	Marble Shipping Limited (Malta)	143/1 Tower Road, Sliema, Slm 1604, Malta; Registration No. C 41949	Marble Shipping Limited (Malta) is owned by IRISL.	27.11.2013
12.	Safirani Payam Darya (SAPID) Shipping Company (a.k.a. Safiran Payam Darya Shipping Lines, SAPID Shipping Company)	33241 - Narenjestan 8th ST, Artesh Blvd, Aghdasieh, PO Box 19635-1116, Tehran, Iran.	Safirani Payam Darya (SAPID) has taken over as beneficial owner a number of Islamic Republic of Iran Shipping Line's (IRISL) vessels. Accordingly, it is acting on behalf of IRISL.	27.11.2013
13.	Shipping Computer Services Company (SCSCOL)	No 37, Asseman, Shahid Sayyad Shirazees Ave, P.O. Box 1587553-1351, Tehran, Iran.	Shipping Computer Services Company is controlled by IRISL.	27.11.2013
14.	Soroush Saramin Asatir (SSA) (a.k.a. Soroush Sarzamin Asatir Ship Management Company, Rabbaran Omid Darya Ship Management Company, Sealeaders)	No 14 (alt. 5), Shabnam Alley, Fajr Street, Shahid Motahhari Avenue, PO Box 196365-1114, Tehran, Iran.	Soroush Saramin Asatir (SSA) operates and manages a number of Islamic Republic of Iran Shipping Lines (IRISL) vessels. Accordingly, it acts on behalf of IRISL and provides essential services to it.	27.11.2013

	Name	Identifying information	Reasons	Date of listing
15.	South Way Shipping Agency Co. Ltd (a.k.a. Hoopad Darya Shipping Agent)	Hoopad Darya Shipping Agency Company, No 101, Shabnam Alley, Ghaem Magham Street, Tehran, Iran; Bandar Abbas Branch: Hoopad Darya Shipping Agency building, Imam Khomeini Blvd, Bandar Abbas, Iran; Imam Khomieni Branch: Hoopad Darya Shipping Agency building B.I.K. port complex, Bandar Imam Khomeini, Iran; Khorramshahr Branch: Flat no.2-2nd floor, SSL Building, Coastal Blvd, between City Hall and Post Office, Khorramshahr, Iran; Assaluyeh Branch: Opposite to city post office, no.2 telecommunication center, Bandar Assaluyeh, Iran; Chabahar Branch: No address available; Bushehr Branch: No address available.	South Way Shipping Agency Co Ltd manages container terminal operations in Iran and provides fleet personnel services in Bandar Abbas on behalf of IRISL. Accordingly, South Way Shipping Agency Co Ltd is acting on behalf of IRISL.	27.11.2013
16.	Valfajr 8th Shipping Line (a.k.a. Valjafr 8th Shipping Line, Valfajr)	No 119, Corner Shabnam Alley, Shooa Square, Ghaem Magam Farahani, Tehran, Iran P.O. Box 15875/4155 Abyar Alley, Corner of Shahid Azodi St. & Karim Khan Zand Ave., Tehran, Iran; Shahid Azodi St., Karim Khan Zand Ave., Abiar Alley, PO Box 4155, Tehran, Iran.	Valfajr 8th Shipping Line is owned by IRISL.	27.11.2013

II. The entities listed below are deleted from the list set out in Annex IX to Regulation (EU) No 267/2012

Iran Transfo

Oil Turbo Compressor Company (OTC)

Sakhte Turbopomp va Kompessor (SATAK) (a.k.a. Turbo Compressor Manufacturer, TCMFG)

III. The entry for the entity set out in Annex IX to Regulation (EU) No 267/2012 listed below is replaced by the entry below

I. Persons and entities involved in nuclear or ballistic missile activities and persons and entities providing support to the Government of Iran

B. Entities

	Name	Identifying information	Reasons	Date of listing
1.	MASNA (Modierat Saakht Nirooghaye Atomi Iran) Managing Company for the Construction of Nuclear Power Plants	P.O. Box 14395-1359, Tehran, Iran	Subordinate to AEOI and Novin Energy (both designated under UNSCR 1737). Involved in the development of nuclear reactors.	26.7.2010

COMMISSION IMPLEMENTING REGULATION (EU) No 1204/2013**of 25 November 2013****amending Regulation (EC) No 798/2008 as regards the entry for the Republic of Moldova in the lists of third countries from which certain meat, meat products, eggs and egg products may be introduced into the Union****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

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⁽¹⁾, and in particular the introductory phrase of Article 8, the first subparagraph of point 1 of Article 8 and point 4 of Article 8 thereof,Having regard to Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption⁽²⁾, and in particular Article 11(1) thereof,

Whereas:

- (1) Directive 2002/99/EC lays down the general animal health rules governing the production, processing, distribution within the Union and the introduction from third countries of products of animal origin for human consumption and provides for establishing specific rules and certification for transit.
- (2) Commission Regulation (EC) No 798/2008 of 8 August 2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements⁽³⁾ lays down that certain commodities are only to be imported into and transit through the Union from third countries, territories, zones or compartments listed in the table in Part 1 of Annex I thereto. It also lays down the veterinary certification requirements for such commodities. Those requirements take also into account whether or not additional guarantees are requested due

to the disease status of those third countries, territories, zones or compartments. The additional guarantees to which those commodities are to comply with are set out in Part 2 of Annex I to Regulation (EC) No 798/2008.

- (3) The Republic of Moldova is listed in Commission Decision 2011/163/EU of 16 March 2011 on the approval of plans submitted by third countries in accordance with Article 29 of Council Directive 96/23/EC⁽⁴⁾ and has a residue monitoring plan approved for eggs
- (4) The Republic of Moldova has asked the Commission to be authorised for imports into the Union of egg products and has submitted relevant information. The thermal treatment applied to egg products reduces the potential animal health risks of these products to a negligible level. Therefore, it is appropriate to include that third country in the list set out in Part 1 of Annex I to Regulation (EC) No 798/2008.
- (5) Regulation (EC) No 798/2008 should therefore be amended accordingly.
- (6) 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

Annex I to Regulation (EC) No 798/2008 is amended in accordance with the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 25 November 2013.

*For the Commission**The President*

José Manuel BARROSO

⁽¹⁾ OJ L 18, 23.1.2003, p. 11.⁽²⁾ OJ L 139, 30.4.2004, p. 206.⁽³⁾ OJ L 226, 23.8.2008, p. 1.⁽⁴⁾ OJ L 70, 17.3.2011, p. 40.

ANNEX

In Part 1 of Annex I to Regulation (EC) No 798/2008 the entry for The Republic of Moldova is added after the entry 'KR – Republic of Korea':

'MD – Republic of Moldova	MD-0	Whole country	EP'							
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COMMISSION REGULATION (EU) No 1205/2013

of 26 November 2013

imposing a provisional anti-dumping duty on imports of solar glass from 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:

1. PROCEDURE

1.1. Initiation

- (1) On 28 February 2013, the European Commission (‘the Commission’) announced, by a notice published in the *Official Journal of the European Union*⁽²⁾ (‘notice of initiation’), the initiation of an anti-dumping proceeding with regard to imports into the Union of solar glass originating in the People's Republic of China (‘the PRC’ or the ‘country concerned’).
- (2) The investigation was initiated following a complaint lodged on 15 January 2013 by EU ProSun Glass (‘the complainant’) on behalf of producers representing more than 25 % of the total Union production of solar glass. The complaint contained prima facie evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify opening of an investigation.
- (3) Following the publication of the notice of initiation, the Commission was informed that the product was defined incorrectly in point 2 of the notice of initiation. Accordingly, a corrigendum to the notice of initiation was published in the *Official Journal of the European Union*⁽³⁾, in which the small error was corrected.

- (4) On 27 April 2013, the Commission announced, by notice published in the *Official Journal of the European Union*⁽⁴⁾, the initiation of a parallel anti-subsidy proceeding with regard to imports into the Union of solar glass originating in the PRC and commenced a separate investigation.

1.2. Registration

- (5) A request for registration of imports of solar glass from the country concerned was received with the complaint but was subsequently withdrawn on 2 October 2013.

1.3. Parties concerned

- (6) The Commission officially advised the complainant, other known Union producers, the known exporting producers in the PRC, importers, traders, users, suppliers and the authorities of the PRC of the initiation of the investigation. All interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. The Commission also informed producers in potential analogue countries about the initiation and invited them to participate.

1.3.1. Sampling

(a) Sampling of Union producers

- (7) The investigation revealed that the Union industry currently consists of seven active producers, two of which are SMEs. The Commission announced in the notice of initiation that it had provisionally selected a sample of Union producers. This sample consisted of four Union producers that were known to the Commission prior to the initiation of the investigation to produce solar glass. The Commission selected the sample on the basis of the largest representative sales volume of the like product during the period 1 January 2012 – 31 December 2012. The sampled Union producers accounted for more than 50 % of the total Union production. The Commission informed interested parties of the proposed sample of Union producers by means of a note for the file for inspection by interested parties. The Commission also sent a letter to the Union producers informing them of the proposed sample. Interested parties were also invited in the notice of initiation to make their views known on the provisional sample.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ C 58, 28.2.2013, p. 6 and corrigendum published in OJ C 94, 3.4.2013, p. 11.

⁽³⁾ OJ C 94, 3.4.2013, p. 11.

⁽⁴⁾ OJ C 122, 27.4.2013, p. 24.

(8) One SME showed interest to be part of the sample as well. The Commission decided to include it together with a second company in the sample due to the higher share of sales volume of the latter and to remove from the sample the company with the lowest sales volume. No other comments were received regarding the provisionally selected sample. As a result, the Commission added two companies to the initially proposed sample and removed one other.

(9) Finally, after the verification visits, the Commission decided to remove one of the five sampled companies, as that company was found not to be representative for the Union industry. In particular, it was in a start-up phase (which was not the case for the Union industry taken as a whole) and the profitability trend would hence not have given a true picture of the state of the Union industry.

(10) Consequently, it finally selected a sample of four Union producers. The final sample accounts for 79 % of the sales of the Union industry on the Union market. The sample is thus considered to be representative of the Union industry.

(11) Three of the seven Union producers requested, on the basis of Article 19 of the basic Regulation, that their identities be kept confidential. They claimed that disclosure of their identity could lead to a risk of significant adverse effects to their business activities. Their request was examined and found to be warranted. It was further decided in view of the limited number of Union producers not to disclose the names of those Union producers which did not request anonymity as this could inadvertently lead to the disclosure of the identity of the others. The identity of the company Interfloat Corporation/GMB Glasmanufaktur Brandenburg GmbH ('GMB/IF') is, however, already known as it declared publicly that it is one of the complainants.

(b) Sampling of unrelated importers

(12) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all unrelated importers were requested to make themselves known to the Commission and to provide information specified in the notice of initiation.

(13) Four unrelated importers replied to the sampling form attached to the notice of initiation, while only two importers submitted the specific questionnaire response. In view of the low number of cooperating importers, sampling was not deemed to be necessary.

(c) Sampling of exporting producers

(14) In view of the high number of exporting producers, sampling was envisaged in the notice of initiation for the determination of dumping, 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, exporting 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 period from 1 January 2012 to 31 December 2012.

(15) Twelve Chinese exporting producers or groups of exporting producers, representing over 95 % of total Chinese exports to the Union during this period provided the requested information and agreed to be included in the sample.

(16) On the basis of the information received and in accordance with Article 17 of the basic Regulation, the Commission selected a provisional sample of five exporting producers based on the largest representative quantity of exports of solar glass to the Union, which could reasonably be investigated within the time available.

(17) All parties concerned, as well as the authorities of the PRC, were informed of the proposed sample and invited to comment. After having analysed the comments received, the Commission decided to retain the proposed sample of five companies and all interested parties were accordingly informed of the finally selected sample.

(18) Subsequently, the investigation revealed that two exporting producers included in the sample had overstated their export sales to the Union and had therefore been included in the sample on unjustified grounds. Both companies were therefore excluded from the sample after having been given the opportunity to provide comments. The Commission, after having duly analysed the comments provided by the companies, concluded that they had not provided the incorrect figures intentionally and decided that they should remain being considered as cooperating parties in the meaning of Article 18 of the basic Regulation.

(19) Following these exclusions, an inclusion of other exporting producers into the sample was considered. However, in view of the fact that both exclusions occurred at a late stage of the investigation, this was deemed not feasible, as it could jeopardise the completion of the investigation within the statutory time limits.

(20) The revised sample of exporting producers or groups of exporting producers of solar glass is therefore the following:

- Flat Solar Glass Group Co., Ltd, and related companies ('Flat Glass Group');
- Xinyi PV Products (Anhui) Holdings ('Xinyi') and its related trader;
- Zhejiang Hehe Photovoltaic Glass Technology Co., Ltd, and related companies ('Hehe Group').

(21) The Commission corrected the volume of total exports sales of the product concerned from the PRC after it was informed about the overestimation of exports sales of the two exporting producers (see recital (18) above). The final sample accounts for more than 50 % of the total volume of exports to the Union of the product concerned during the period from 1 January 2012 to 31 December 2012 as reported by the cooperating exporting producers. It is therefore considered representative in terms of volumes of exports of solar glass to the Union from the PRC.

(d) *Questionnaire replies and verification visits*

- (22) The Commission sent questionnaires to all Chinese exporting producers that had so requested, as well as to the sampled Union producers, the unrelated importers and their associations, as well as to users that made themselves known within the time limits set out in the notice of initiation.
- (23) Questionnaire replies were received from four Chinese exporting producers, from all sampled Union producers, two unrelated Union importers and 12 users.
- (24) The Commission sought and verified all the information deemed necessary for the purpose of a provisional determination of dumping, resulting injury and Union interest. Verification visits were carried out at the premises of the following companies or group of companies.

(a) *Union producers:*

- GMB/IF and other companies subject to confidentiality treatment.

(b) *Importers:*

- Vetrad NV, the Netherlands.

(c) *Users:*

- Sunerg Solar SRL, Italy.

(d) *Exporting producers in the PRC:*

— *Sampled companies:*

- Zhejiang Jiafu Glass Co., Ltd; Zhejiang Flat Mirror Glass Co., Ltd; Flat Solar Glass Group Co., Ltd; Shanghai Flat Glass Co., Ltd ('Flat Glass Group');
- Xinyi PV Products (Anhui) Holdings Ltd and Xinyi Solar (Hong Kong) Limited ('Xinyi Group');
- Zhejiang Hehe Figured Glass Co., Ltd., Zhejiang Yaohua Import and Export Co., Ltd., and Zhejiang Glaverbel Glass Technology Co., Ltd, Zhejiang Hehe Photovoltaic Glass Technology Co., Ltd, Hangzhou Hehe Glass Industry Co., Ltd. ('Hehe Group').

— *Company subject to individual examination:*

- Henan Yuhua New Material Co., Ltd ('Henan Yuhua').

(e) *Producer in the analogue country*

- In view of the need to establish a normal value for the exporting producers in the PRC in case market economy treatment as defined in Article 2(7)(b) of the basic Regulation would not be granted, a verification visit to establish normal value on the basis of data from Turkey as analogue country took place at the premises of the following company:

- Trakya Cam Sanayii A.Ş., Turkey.

1.3.2. *Investigation period and period considered*

- (25) The investigation of dumping and injury covered the period from 1 January 2012 to 31 December 2012 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2009 to the end of the investigation period ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. *Product concerned*

- (26) The product subject to this investigation is solar glass consisting of tempered soda-lime-flat-glass, with an iron content of less than 300 ppm, a solar transmittance of more than 88 % (measured according to AM1,5 300-2 500 nm), a resistance to heat up to 250 °C (measured according to EN 12150), a resistance to thermal shocks of $\Delta 150$ K (measured according to EN 12150) and having a mechanical strength of 90 N/mm² or more (measured according to EN 1288-3) ('the product concerned').

(27) The product concerned currently falls within CN code ex 7007 19 80.

(28) Solar glass is one of the components for manufacturing crystalline silicon photovoltaic modules and thin film photovoltaic modules producing electricity as well as flat thermal collectors generating hot water.

2.2. Like product

(29) The investigation has shown that the product concerned and the product produced and sold on the domestic market of the PRC, the product produced and sold in the Union by the Union industry, and the product produced and sold on the domestic market of Turkey, which was considered serving as an analogue country, have the same basic physical and technical characteristics as well as the same basic uses. They are therefore provisionally considered to be 'like products' within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

(30) An importer requested exclusion of horticultural glass for the construction of greenhouses from the scope of the investigation, arguing that greenhouses use very differently sized glass whereas solar glass is produced in only certain fixed sizes. In addition, the importer provided a certificate showing that part of its imports comprise of glass with iron content higher than 300 ppm. Consequently, that part of the imported horticultural glass clearly does not fall within the scope of the present investigation.

(31) Another importer argued that the furniture glass it imports (used for glass shelves, panel fillings, table tops, sliding door panels, top panels products, etc.) has the same or very similar technical characteristics as solar glass but requested its exclusion from the scope of the investigation as it has a different end use. However, on the basis of the evidence provided, it seems that most of the glass it imports would not share all the technical characteristics of solar glass as described in recital (26) above. In particular, six types of the imported glass have iron content much higher than 300 ppm, while one type of the imported glass has iron content lower than 300 ppm but their solar transmittance is significantly lower than the minimum 88 % required to be defined as solar glass. The importer argued that even though those types of glass do not fulfil one of the technical characteristics of solar glass as described in recital (26) above, they are complying with the primary classification for solar glass, i.e. 'tempered soda-lime-flat-glass'. The Commission is of the preliminary opinion that only those types of glass which fulfil all the technical characteristics of solar glass fall within the scope of the investigation. Consequently, it is provisionally

concluded that the types of glass mentioned above and imported by this particular importer fall outside the scope of the investigation.

(32) However, any types of horticultural and furniture glass which may have similar technical characteristics as solar glass remain at this stage within the scope of the product concerned as they can potentially be used as solar glass.

(33) The importer also argued that float glass should be excluded from the product scope since it has a different production process than rolled glass which is perceived by the importer as the only type of solar glass. In addition, since float glass home furnishing products cannot allegedly represent a substitute for solar glass products, it was argued that the float glass should not be considered as a like product and should be excluded from the scope of the investigation. The Commission is of the preliminary opinion that float glass cannot be excluded from scope of the investigation since it complies with all the technical characteristics contained in recital (26) above. Moreover, the investigation showed that float glass can clearly be used as solar glass and it is produced by both the Union industry and the Chinese exporters. Consequently, it is provisionally concluded that float glass remains within the scope of the investigation.

3. DUMPING

3.1. Market economy treatment ('MET')

(34) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports from the PRC, normal value shall be determined in accordance with Article 2(1) to (6) of the basic Regulation for those exporting producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation.

(35) Briefly, and for ease of reference only, these criteria are set out below:

- (1) business decisions are made in response to market conditions and without significant State interference, and costs reflect market values;
- (2) firms have one clear set of basic accounting records, which 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; and
- (5) currency exchanges are carried out at the market rate.
- (36) Ten cooperating companies requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form within the given deadlines. Pursuant to Article 2(7)(d) of the basic Regulation, a MET verification was carried out to the companies which were included in the sample as well as to the company that was granted individual examination (see recital (48) below).
- (37) It follows that a MET determination was made in respect of the following four companies or groups of companies.
- Sampled companies:
- Zhejiang Jiafu Glass Co., Ltd; Zhejiang Flat Mirror Glass Co., Ltd; Flat Solar Glass Group Co., Ltd; Shanghai Flat Glass Co., Ltd ('Flat Glass Group');
- Xinyi PV Products (Anhui) Holdings Ltd and Xinyi Solar (Hong Kong) Limited ('Xinyi Group');
- Zhejiang Hehe Figured Glass Co., Ltd., Zhejiang Yaohua Import and Export Co., Ltd., and Zhejiang Glaverbel Glass Technology Co., Ltd, Zhejiang Hehe Photovoltaic Glass Technology Co., Ltd, Hangzhou Hehe Glass Industry Co., Ltd. ('Hehe Group').
- Company subject to individual examination:
- Henan Yuhua New Materials Co., Ltd ('Henan Yuhua').
- (38) The Commission sought all the information deemed necessary and verified all the information submitted in the MET claims at the premises of the companies in question.
- (39) In case of related parties, the Commission shall examine whether the group of the related companies as a whole fulfils the conditions for MET. Therefore, in cases where a subsidiary or any other company related to the applicant in the PRC is involved, directly or indirectly, in the production or sales of the product concerned, the MET examination is carried out in respect of each company individually as well as to the group of companies as a whole.
- (40) Accordingly, the MET claims of four exporting producers (groups of companies), comprised of eleven legal entities, were investigated.
- (41) The investigation established that all four exporting producers (groups of companies) claiming MET failed to demonstrate that they fulfilled all of the criteria laid down in Article 2(7)(c) of the basic Regulation.
- (42) More specifically, three exporting producers failed to demonstrate, either individually or as a group, that they had one set of clear set of accounts that were independently audited in line with international accounting standards and therefore did not fulfil MET criterion 2.
- (43) Moreover, all four exporting producers, either individually or as a group, failed to demonstrate that they were not to subject to significant distortions carried over from the non-market economy system. Accordingly, these companies, or group of companies, did not fulfil MET criterion 3. More specifically, all four exporting producers, or groups of exporting producers, benefitted from preferential tax regimes.
- (44) In addition, one of these exporting producers also failed criterion 3 on the basis that several companies within the group, notwithstanding their dire financial situation, obtained significant financing during the IP (and before) at rates, which under conditions normally prevailing in a market economy, would be reserved for financially healthy companies. Another group of exporting producers also failed criterion 3 on the basis of the fact that companies within the group purchased natural gas at a reduced rate from a state-owned supplier.
- (45) The Commission disclosed the results of the MET investigation to the companies concerned, the authorities of the PRC and the complainant and invited them to comment.
- (46) The comments received were not such as to alter the Commission's preliminary findings. After having consulted the Member States in accordance with Article 2(7) (c), all applicants were individually and formally notified, on 13 September 2013, of the Commission's final determination with regard to their respective MET claim.

- (47) Accordingly, neither of the four cooperating exporting producers or groups of exporting producers in the PRC that had requested MET could show that they fulfilled all the criteria set out in Article 2(7)(c) of the basic Regulation and their MET claims were therefore rejected.

3.2. Individual examination

- (48) One of the two exporting producers that had originally been included in the sample but subsequently excluded (see recital (18)) - had requested individual examination, pursuant to Article 17(3) of the basic Regulation, should it not be included in the sample. Following its exclusion from the sample and in view of the fact that an MET verification visit had already taken place (see recital (37) above), it was considered that it would not be unduly burdensome to grant this company individual examination ('IE'). No other exporting producer, which was not included in the sample had requested IE.

3.3. Normal value

3.3.1. Choice of the analogue country

- (49) In accordance with Article 2(7)(a) of the basic Regulation, the Commission envisaged in the notice of initiation that normal value should be determined on the basis of the price or constructed value in a market economy third country or, should an appropriate market economy third country not be found, the normal value should be established on the basis of Union prices in accordance with Article 2(7)(a) of the basic Regulation. Before resorting to Union prices the Commission would investigate all possibilities for selecting an appropriate analogue country.
- (50) Interested parties were invited to comment on the choice of an analogue country and on the use of Union prices.
- (51) Comments were received from the China Chamber of Commerce for Export/Import of Light Industrial Products and Arts-crafts ('CCCLA'), from an unrelated importer, as well as from two Chinese exporting producers, which all contested the use of Union prices to establish the normal value. Turkey and India were put forward as appropriate analogue countries.

- (52) Meanwhile, in order to investigate all possibilities for selecting an appropriate analogue country, the Commission services had identified eleven market economy third countries with possible production of solar glass and, based on publicly available information, invited 24 companies in those countries to cooperate

with the Commission. These countries were: Australia, India, Indonesia, Japan, Saudi Arabia, South Africa, South Korea, Taiwan, Thailand, Turkey and the USA.

- (53) Based on the information at the Commission's disposal, apart from the PRC and the Union, only India and Turkey produce the like product. In order to make a proper assessment of the suitability of Turkey and India as appropriate analogue countries, the Commission analysed information concerning the like product and more specifically, the number of producers, the size of the domestic market, the level of imports and the importance of trade and non-trade barriers in both countries. However, only one company from Turkey came forward and expressed its willingness to cooperate with the Commission despite many attempts from the Commission to receive cooperation also from producers in India.
- (54) Turkey is a market economy third country. The import duties applicable to the like product are 3 % MFN. Due to the Turkey-EU Customs Union import duties applicable bilaterally are 0 %. There seem to be no other duties or other significant non-trade barriers concerning the like product.
- (55) According to the Turkish producer that expressed its willingness to cooperate in the investigation, it is the sole company producing the like product in Turkey. The company has significant production and is both exporting and selling domestically the like product with the export quantity being higher than the quantity sold domestically.
- (56) Notwithstanding the absence of trade and non-trade barriers, there were virtually no imports of solar glass on the Turkish market during the IP. In the same time, the Commission's investigation confirmed that the cooperating analogue country producer was making a reasonable and not an excessive profit during the IP.
- (57) Based on the above and considering all information available at this stage of the investigation, Turkey has provisionally been chosen as an analogue country in accordance with Article 2(7)(a) of the basic Regulation.
- #### 3.3.2. Normal value
- (58) In view of the fact that all requests for MET were denied, normal value for all Chinese exporting producers was established on the basis of information received from the producer in the analogue country, pursuant to Article 2(7)(a) of the basic Regulation.

- (59) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the sales of the like product in Turkey to independent customers were representative. The sales of the Turkish cooperating producer of the like product were found to be sold in representative quantities on the Turkish domestic market compared to the product concerned exported to the Union by the Chinese exporting producers included in the sample.
- (60) The Commission subsequently examined whether these sales could be considered as having been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable sales to independent customers. The sales transactions were considered profitable where the unit price was equal or above the cost of production. The cost of production of the Turkish producer during the IP was therefore determined.
- (61) For those product types where more than 80 % by volume of sales on the domestic market of the type in question were above cost and the weighted average sales price of that type was equal to or above the unit cost of production, normal value, by product type, was calculated as the weighted average of the actual domestic prices of all sales of the type in question, irrespective of whether those sales were profitable or not.
- (62) Where the volume of profitable sales of a product type represented 80 % or less of the total sales volume of that type, or where the weighted average price of that type was below the unit cost of production, normal value was based on the actual domestic price, which was calculated as a weighted average price of only the profitable domestic sales of that type made during the IP.
- (63) As regards the types of product that were not profitable, normal value was constructed using the cost of manufacturing of the Turkish producer plus SG&A and profit for the product types of the Turkish producer that are profitable.
- (64) Due to the lack of coating technology applied on the solar glass produced in Turkey during the IP and because none of the Turkish solar glass was produced using a float production process, there was no sale of several product types on the Turkish domestic market. Therefore, for the product types which were not sold in Turkey during the IP but were exported from the PRC to the Union, the normal value had to be constructed pursuant to Article 2(3) of the basic Regulation on the basis of the Turkish analogue producer's manufacturing

costs plus a reasonable amount for selling, general and administrative costs ('SG&A') and for profit. The cost of coating and the cost of the float production process were based on data provided by the Union Industry.

3.4. Export prices

- (65) The export prices were based on the prices actually paid or payable for the product concerned, in accordance with Article 2(8) of the basic Regulation.

3.5. Comparison

- (66) The normal value and export price were compared on an ex-works basis. The dumping margins were established by comparing the individual ex-works prices of the sampled exporters to the domestic sales prices of the analogue country producer or to the constructed normal value as appropriate.
- (67) 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.
- (68) On this basis, adjustments were made for transport, ocean freight and insurance costs, handling, loading and ancillary costs, export duties and commissions in all cases where demonstrated to affect price comparability.

3.6. Dumping margin

- (69) For the sampled exporting producers, the weighted average constructed normal value of each type of the like product in Turkey was compared with the weighted average export price of the corresponding product type, as provided for in Article 2(11) and (12) of the basic Regulation.
- (70) Pursuant to Articles 2(11) and 2(12) of the basic Regulation, the dumping margins for the sampled exporting producers and to the one granted IE were established on the basis of a comparison of the weighted average constructed normal value of each product type of the like product established in Turkey, with each company's weighted average export price of the corresponding type of the product concerned, expressed as a percentage of the CIF Union frontier price, duty unpaid.

- (71) The weighted average dumping margin for the cooperating exporting producers not included in the sample was calculated in accordance with the provisions of Article 9(6) of the basic Regulation. This margin was established on the basis of the margins established for the sampled exporting producers.
- (72) With regard to all other exporting producers in the PRC, the dumping margin was established on the basis of the facts available in accordance with Article 18 of the basic Regulation. To this end the Commission determined the level of cooperation in the PRC. The level of cooperation is the proportion of the volume of exports of the cooperating exporting producers to the Union towards the total export volume from the country concerned to the Union reported in the complaint (see recital (15) above).
- (73) The level of cooperation is high since the imports of the cooperating exporting producers constitute more than 80 % of the total exports to the Union during the IP. On this basis, the residual dumping margin applicable to all other exporting producers in the PRC was set at a level corresponding to the highest dumping margin found for the cooperating exporting producers in the sample.
- (74) The established provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

	Name of company	Provisional dumping margin
Sampled companies	Flat Glass Group	86,2 %
	Hehe Group	75,3 %
	Xinyi Group	74,0 %
Company with individual dumping margin	Henan Yuhua	31,9 %
Non-sampled cooperating companies for which a sample average will apply		79,8 %
All other companies		86,2 %

4. INJURY

4.1. Definition of the Union industry and Union production

- (75) The like product was manufactured by eight producers in the Union during the IP. They constitute the Union industry within the meaning of Article 4(1) of the basic Regulation and will hereafter be referred to as 'the Union industry'.

- (76) All available information concerning Union industry, including information provided by the complainant, macro-economic data provided by the Union Industry's association (Glass for Europe) and the questionnaire responses of the sampled Union producers were used in order to establish the total Union production for the IP. Since solar glass is imported in the Union under customs heading 7007 19 80 – Other - Laminated safety glass, which covers other products not subject to the present investigation, Eurostat could not be used to determine import volumes and values. Import volumes and values were based on data provided by the complainant and the Union industry's association. When possible, the data was cross-checked with the questionnaire replies. On this basis, the total Union production was estimated to be around 21 734 000 m² during the IP.

- (77) As explained in recital (10) above, four Union producers were selected in the sample representing 79 % of the total Union sales of the like product.

4.2. Determination of the relevant Union market

- (78) It was found during the investigation that none of the sampled Union producers' production was destined for captive use.
- (79) Consequently, for the purpose of this investigation there is no need to make a distinctive analysis of captive sales.

4.3. Union consumption

- (80) The Union consumption was established on the basis of the volume of the total Union sales on the Union market of all Union producers, minus their exports, plus imports from the PRC and imports from other third countries. As explained in recital (76) above, the Union consumption was based on data provided by the complainant and the Union industry's association (Glass for Europe) and, when possible, cross-checked with the sampled Union producers' questionnaire replies.
- (81) Union consumption developed as follows:

Table 1

Union consumption (1 000 m²)

	2009	2010	2011	IP
Total Union consumption	19 440	28 504	35 258	29 040
Index	100	147	181	149

Source: Glass for Europe and the complainant.

- (82) In the period considered, the total Union consumption increased by 49 % between 2009 and the IP, but decreased in the IP compared to 2011. In overall terms the Union consumption of solar glass grew significantly when compared to its 2009 level. This is mainly due to the increase in consumption of the end products, in particular solar modules (see recital (142) below).

4.4. Imports from the country concerned

4.4.1. Volume and market share of the dumped imports from the country concerned

- (83) Dumped imports into the Union from the country concerned developed as follows:

Table 2

Import volume (1 000 m²) and market share

	2009	2010	2011	IP
Volume of imports from the PRC (1 000 m ²)	1 200	2 050	6 150	8 350
Index	100	171	513	696
Market share	6,2 %	7,2 %	17,4 %	28,8 %
Index	100	117	283	466

Source: Glass for Europe and the complainant.

- (84) Over the period considered, dumped import volumes of the product concerned to the Union increased considerably by 596 %. This led to significant market share increases of the dumped imports of the product concerned into the Union. In particular, the market share of these imports increased from 6,1 % to 28,7 %. In overall terms the dumped imports of the product concerned increased significantly both in volume and market share between 2009 and the IP.
- (85) The increase in dumped imports from the country concerned by far exceeded the increase in the Union consumption for the product concerned and the like products. Consequently, the exporting producers were

able to benefit to a much larger extent from the Union's growing consumption and greatly reinforced their position on the market.

4.4.2. Prices of the dumped imports from the country concerned and price undercutting

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

Table 3

Import prices (EUR/m²)

	2009	2010	2011	IP
PRC	6,02	6,10	4,96	4,38
Index	100	101	82	73

Source: Complainant and questionnaire replies of the Chinese exporting producers.

- (87) The average import price for the product concerned dropped over the period considered. The average import price decreased by 27,2 % from 6,02 EUR/m² in 2009 to 4,38 EUR/m² in the IP.
- (88) In order to determine price undercutting during the IP, the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level, were compared to the corresponding weighted average prices per product type of the imports from the sampled cooperating Chinese producers to the first independent customer on the Union market, established on a CIF basis, with upward adjustments, i.e. custom clearance, duty, handling and loading costs. Those adjustments increase the price, depending on the product control number, by 7 to 15 %.
- (89) The price comparison was made on a product type number -by- product type number basis for transactions at the same level of trade, duly adjusted as set out in recital (88) above, and after deduction of rebates and discounts. The result of the comparison, when expressed as a percentage of the sampled Union producers' turnover during the IP, showed a weighted average undercutting margin between 10,6 % and 26,7 % of the prices of the sampled Union producers by the dumped imports of the product concerned.

4.5. Economic situation of the Union industry

(90) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic factors and indices having a bearing on the state of the Union industry during the period considered.

(91) As explained in recitals (7)-(8) above, sampling was used for the examination of the possible injury suffered by the Union industry.

(92) For the purpose of the injury analysis, the Commission distinguished between macro-economic and micro-economic injury indicators. The Commission analysed the macro-economic indicators for the period considered on the basis of the data provided by the Union industry relating to all Union producers. The Commission analysed the micro-economic indicators on the basis of the sampled Union producers' questionnaire responses.

(93) For the purpose of this investigation, the following macro-economic indicators were assessed: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin and recovery from past dumping.

(94) The following micro-economic indicators were assessed: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments and ability to raise capital.

4.6. Macro-economic indicators

4.6.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2009	2010	2011	IP
Production capacity (1 000 m ²)	39 000	44 611	48 511	54 615
Index 2009	100	114	124	140

	2009	2010	2011	IP
Production volume (1 000 m ²)	17 540	29 245	31 245	21 734
Index	100	167	178	124
Capacity utilisation	45 %	66 %	64 %	40 %
Index	100	146	143	88

Source: Complainant and Union producers' questionnaire replies.

(96) Production of the Union industry increased over the period considered in line with consumption. Production reached a peak in 2011 and then dropped by 30 % in the IP. Against the background of a high increase in consumption, the Union industry increased its production capacity during the period considered by 40 %. Even though production levels were higher, the Union producers' capacity utilisation rate decreased by 5 percentage points, as the Union industry had ramped up its production capacity in response to strong demand, reaching 40 % during the IP.

(97) Even if the Union industry expanded its capacity in response to an increased consumption, the Union industry's production levels increased at a lower rate than the consumption and the capacity utilisation, after a substantial increase in the first three years of the period considered, decreased during the investigation period, which coincided with an increased market share of the dumped imports from the country concerned.

4.6.2. Sales volume and market share

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

Table 5

Sales volume and market share

	2009	2010	2011	IP
Sales volume (1 000 m ²)	17 540	25 568	27 821	19 667
Index	100	146	159	112
Market share	90,2 %	89,7 %	78,9 %	67,7 %
Index	100	99	87	75

Source: Glass for Europe and the complainant.

- (99) During the period considered the Union industry's sales volume increased by 12 %. However, in the context of an increase in Union consumption by 49 %, this was translated into a decrease of the Union industry's market share from 90,2 % in 2009 to 67,7 % during the IP, i.e. a considerable decrease by 25 % over the period considered. The Union industry's sales grew much less than the dumped imports from the country concerned. Consequently, the Union producers could not fully benefit from the growing consumption and thus their market share decreased during the period considered.

4.6.3. Growth

- (100) The growth of the Union industry is reflected in its volume indicators such as production, sales but in particular, in its market share. Despite an increase in consumption during the period analysed the market share of the Union producers did not grow in line with consumption. The market share of the Union industry declined over the period as the volume of imports rose. During the same period, the market share of the imports from the PRC increased by 366 %. The fact that the Union industry could not fully benefit from market growth had an overall negative impact on its economic situation.

4.6.4. Employment and productivity

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

Table 6

Employment and productivity

	2009	2010	2011	IP
Employment - Full time equivalent (FTE)	565	792	932	857
Index	100	140	165	152
Productivity (1 000 m ² /FTE)	31	37	34	25
Index	100	119	108	82

Source: Complainant and Union producers' questionnaire replies.

- (102) Overall, employment increased by 52 % between 2009 and the IP. However, the increase took place in the

period until 2011 when it reached its peak of 932 Full time equivalent (FTE) and subsequently decreased to 857 FTE during the IP. Productivity remained relatively stable throughout the period 2009-2011. This is partially due to the fact that the production of the like product is highly automated and requires a small number of personnel. However, during the IP it decreased by 24,4 % in comparison with 2011. This was a result of the decrease by around 30 % in production during the same period.

- (103) Therefore, employment decreased during the IP, responding to the trend in the Union production of the like product during the IP.

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

- (104) All dumping margins are significantly above the de minimis level. Given the volume and prices of imports from the country concerned, the impact of the magnitude of the actual margins of dumping on the Union industry can be considered substantial.

- (105) Since this is the first anti-dumping investigation regarding the product concerned, recovery from past dumping is not an issue in the assessment.

4.6.6. Micro-economic indicators

- (106) As indicated above in recital (92), the micro-economic indicators are analysed on the basis of the questionnaire responses provided by the sampled Union producers. For the majority of the sampled Union producers 2009 was the year when they made their initial investments and started the production of the like product. Thus, all the indicators analysed below are significantly influenced by this start-up phase in 2009. In order to show the trends without the distortive impact of the start-up phase of the sampled companies, indexes are also shown from 2010.

4.6.7. Prices and factors affecting prices

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

Table 7

Average sales prices in the Union

	2009	2010	2011	IP
Average unit selling price on the Union market (EUR/m ²)	10,64	9,07	8,91	8,20
<i>Index 2009</i>	100	85	84	77
<i>Index 2010</i>	117	100	98	90
Unit cost of production (EUR/m ²)	13,00	8,34	8,42	9,30
<i>Index 2009</i>	100	64	65	72
<i>Index 2010</i>	156	100	101	112

Source: Union producers' questionnaire replies.

- (108) Unit sales prices fell continuously throughout the period considered, but the decrease in prices was particularly pronounced during the IP when they dropped by 7,9 % in comparison with 2011, by 9,5 % in comparison with 2010 and by 23 % in comparison with 2009.

- (109) Despite the big difference between Union industry's average unit selling price and the Chinese import prices, as explained in recital (89) above, the actual undercutting based on a comparison per product type was much lower, i.e. between 10,6 % and 26,7 % during the investigation period.

- (110) The unit cost of production increased by more than 10 % between 2011 and the IP, while it remained relatively stable between 2010 and 2011. The cost of production generally followed the trend of the sales price between 2009 and the IP. The increase in the unit cost of production was due to decrease in production volume, while the total cost of production actually decreased between 2011 and the IP.

4.6.8. Labour costs

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

Table 8

Average labour costs per employee

	2009	2010	2011	IP
Average costs per employee (EUR)	45 232	44 503	48 288	50 615
<i>Index 2009</i>	100	98	107	112
<i>Index 2010</i>	102	100	109	114

Source: Union producers' questionnaire replies.

- (112) Between 2009 and the IP, the average labour costs per employee continuously increased, overall by 12 %. However, the major increase was between 2011 and the IP, i.e. by 4,8 %. The overall increase of labour costs can be partly explained by inflation and redundancy costs incurred by some Union producers linked to the downsizing of the industry between 2011 and the IP.

4.6.9. Inventories

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

Table 9

Inventories

	2009	2010	2011	IP
Closing stocks (1 000 m ²)	1 540	1 875	1 657	1 778
<i>Index 2009</i>	100	122	108	115
<i>Index 2010</i>	82	100	88	95

Source: Union producers' questionnaire replies.

- (114) Stocks increased by 7,3 % between 2011 and the IP and by 15 % between 2009 and the IP, while they dropped by 11,6 % between 2010 and 2011.

- (115) The investigation showed that given the reduction in sales both in volume and in value, Union producers would tend to hold limited stocks for the like product. Therefore, the increase in stocks for the like product over the period considered is a relevant indicator in establishing if the Union industry suffered material injury.

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

- (116) Profitability, cash flow, investments and return on investments of the sampled Union producers developed as follows over the period considered:

Table 10

Profitability, cash flow, investments and return on investments

	2009	2010	2011	IP
Profitability	- 20,3 %	8,3 %	8,2 %	- 14,5 %
Index 2009	100	241	240	129
Index 2010	- 244	100	99	- 174
Cash flow (1 000 EUR)	- 21 550	29 574	33 425	6 200
Index 2009	100	337	355	229
Index 2010	- 73	100	113	21
Investments (1 000 EUR)	46 087	18 230	7 633	10 712
Index 2009	100	40	17	23
Index 2010	253	100	42	59
Return on investments	- 6,9 %	9,6 %	13,3 %	- 11,5 %
Index 2009	100	339	393	66
Index 2010	- 72	100	139	- 120

Source: Questionnaire replies of the Union producers.

- (117) Profitability of the sampled Union producers was established by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of such sales.
- (118) In 2009 most of the sampled Union producers incurred losses, which, as explained above, were mainly due to the fact they started their production of the like product at

that time. In 2010 the average profit was already 8,31 %. Subsequently the profitability slightly decreased in 2011 when the dumped imports started increasing. Finally, the industry suffered significant losses during the IP, i.e. a drop by 276,6 % in comparison with 2011.

- (119) The trend in net cash flow, which is the ability of the sampled Union producers to self-finance their activities, had a pronounced drop of 81 % between 2011 and the IP. It was increasing progressively as from 2010 and overall it increased over the period considered.
- (120) The return on investments ('ROI') was expressed as the profit in percentage of the net book value of investments.
- (121) The table above shows that after the start-up phase in 2009 when industry made major investments in the like product, investments constantly decreased between 2009 and 2011 and then increased in the IP. However, investments remained at low level in the IP in comparison with 2009 levels. The investments made in the IP were mainly linked to R&D as well as improving and maintaining production technology and process in order to improve efficiency. In particular, the industry invested in new product types that are not imported from the PRC during the same period and that are research and innovation intensive.
- (122) By contrast, the return on investments decreased by 34 % between 2009 and 2012. However, it constantly increased before the IP, i.e. it increased by 293 % between 2009 and 2011, but it dropped by 186 % during the IP in comparison with 2011.
- (123) As far as the ability to raise capital is concerned, it has been found that there was a constant deterioration of the ability of the Union industry to generate cash for the like product and, consequently, a weakening of the financial situation of the Union industry.

4.7. Conclusion on injury

- (124) The analysis of the situation of the Union industry shows a clear downward trend of most of the injury indicators. Against a generally increasing consumption, overall production increased in the period considered. Although the volume of sales increased, the market share of the Union industry shrank in the IP in the background of the higher rate of increase of consumption during the period considered. Average sales price fell sharply during the period considered, negatively impacting all the financial performance indicators such as profitability, cash flow, return on investments and ability to raise capital.

- (125) Over the period considered, the overall Union industry's sales volume increased. However, the increase in sales volumes of the Union industry was accompanied by a significant decrease in average sales price, as well as in the Union industry's market share.
- (126) In view of the above, the investigation confirmed in particular the fact that the Union industry's sales prices are below their production costs, thus having a negative effect on the Union industry's profitability, reaching significant negative levels during the IP.
- (127) However, capacity developed positively between 2009 and the IP. In addition, although investments did decrease between 2009 and the IP, they increased between 2011 and the IP. This is due to the fact that, as explained in recital (121), the sampled companies continued investing in the like product by, amongst other things, concentrating on product types in market niches where there are no exports of these particular product types yet from the country concerned and which are research and innovation intensive. At the same time, it is evident that the Union industry also needs to be able to produce and sell the high volumes of the more basic product types (which are currently in competition with the dumped imports from the PRC) in order to dilute fixed costs and achieve economies of scale.
- (128) Consequently, it can be concluded that the Union industry not only suffered material injury during the IP, but also actively sought ways to reduce of its exposure to the dumped imports of the product concerned whereby developing innovative products which are not yet imported from the country concerned.
- (129) In the light of the foregoing, it is provisionally concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. CAUSATION

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

5.1. Effects of the dumped imports

- (131) The investigation showed that dumped imports increased dramatically over the period considered, increasing their

volumes significantly by 596 % and their market share by 366 %. Therefore, it is confirmed that volume of imports and market share for the product concerned increased dramatically during the period considered. There was a clear coincidence in time between the increase in dumped imports and the loss of market share of the Union industry. The investigation also established that as mentioned in recital (89) above, the dumped imports undercut the prices of the Union industry during the IP.

- (132) The investigation showed that the prices of the dumped imports decreased by 27,2 % during the period considered and led to higher undercutting margins. Against this extreme price pressure, the Union industry underwent considerable effort to decrease its production costs. Despite these efforts the exceptionally low level of Chinese import prices forced the Union industry to further decrease its sales price to unprofitable levels. Thus, the profitability of the Union industry decreased dramatically during the period considered and showed losses during the IP.
- (133) Based on the above, it is provisionally concluded that the presence of dumped imports and the massive increase of their market share at prices constantly undercutting those of the Union industry have had a determining role in the material injury suffered by the Union industry.

5.2. Effects of other factors

5.2.1. Imports from third countries

- (134) The volume of imports from other third countries developed as follows over the period considered:

Table 11

Imports from third countries (1 000 m²)

	2009	2010	2011	IP
Volume (m ²)	700	886	1 287	1 023
Index	100	127	184	146
Market share	3,6 %	3,1 %	3,7 %	3,5 %
Index	100	86	101	98
Average price EUR/m ²	10,50	10,09	9,60	8,40
Index	100	96	91	80

Source: Glass for Europe and the complaint.

(135) The volume of imports from other third countries during the period considered increased by 46 %, in line with increase in Union consumption. Their market share slightly decreased during the IP in comparison with 2011 (3,5 %) but overall it remained stable over the period considered. Turkey is the second largest exporter after the PRC, followed by India.

(136) The information available as regards imports from all third countries shows that the average import price was higher than the average Chinese import price. This is also valid for unit price per particular types of the product concerned. On the other hand, the third countries' average import price was similar or higher than the Union industry's average price.

(137) On these grounds, in particular in view of the import volumes and market shares from third countries as well as their price levels, it can be provisionally concluded that third country imports could not break the causal link between the dumped imports and the injury suffered by the Union industry.

5.2.2. Export performance of the Union industry

(138) The volume of exports of the sampled Union producers developed as follows over the period considered:

Table 12

Export performance of the sampled Union producers

	2009	2010	2011	IP
Export sales value (1 000 EUR)	19 313	19 814	27 419	7 001
Index	100	103	142	36
Export sales volume (1 000 m ²)	1 460	1 713	2 708	760
Index	100	117	185	52
Average price (EUR/m ²)	13,22	11,56	10,12	9,21
Index	100	87	77	70

Source: Questionnaire replies of the Union producers.

(139) Export sales of the sampled Union producers increased between 2009 and 2011, but dropped suddenly in the IP by 74 % in value and by 71,9 % in volume. Based on the replies of the sampled Chinese exporters, this is most probably due to very low prices of Chinese exports to the Union industry's major destinations of exports (i.e. US, Canada).

(140) Export sales of the sampled Union producers constituted 20 % of their total sales in volume in 2009 (in the start-up phase), during 2010 11 % and during the peak year of 2011 only 14 %. 2012 showed a further decrease to 5 % when they entered in competition with Chinese low price exports to major third country destinations. Consequently, as the Union market is the main market for the Union industry, also because solar glass is relatively heavy and fragile, which translates into additional costs when transported over a distance (due to breakage and corrosion), it cannot be concluded at this stage that the deteriorated export performance of the sampled Union producers breaks the causal link between the dumped imports and the injury suffered by the Union industry.

5.2.3. Development of consumption

(141) As mentioned above, the Union consumption increased between 2009 and the IP by 49 %. It had its peak in 2011 when it increased by 81 % in comparison with 2009. However, the Union industry could not benefit from this increase in consumption. Its market share fell constantly during the period considered reaching a drop of 25 % during the IP in comparison with 2009 (– 14,1 % in comparison with 2011). On the contrary, the Chinese market share was increasing sharply, even when consumption fell between 2011 and IP, resulting in an increase by 64,8 % between 2011 and the IP and an overall increase by 366 % during the whole period. The increase of Chinese imports was a massive 596 % during the period considered.

(142) As the Union consumption increased in the period considered, its development is such that reinforces the causal link between the increasing dumped imports and the injury suffered by the Union industry and it is not itself a cause of injury to the Union industry. In addition, even in the IP, when consumption decreased, Chinese dumped imports were able to further increase their market share at the detriment of the Union industry. Therefore, it can provisionally be concluded that the decrease in consumption in the IP could not break the causal link between the dumped imports and the injury suffered by the Union industry.

5.2.4. Trends in solar modules

(143) According to the information at the Commission's disposal, around 80-85 % of solar glass sales are made to solar modules producers (Crystalline silicon photovoltaic modules and thin-film photovoltaic modules), and around 15-20 % of the sales are made to producers of solar thermal flat plate collectors producing hot water. Consequently, the trends observed in solar modules have an important impact on the consumption of solar glass. Consumption of solar modules increased constantly throughout the same period, i.e. 2009-2012, and even though there was a decrease in 2012, the level of consumption remained 221 % higher than in 2009 and 44 % higher than in 2010⁽¹⁾. In addition, it was established that while demand for modules in the Union was initially generated by the feed-in-tariffs (FITs), it could not be concluded that the FITs cutbacks (at the end of 2011, beginning of 2012) had broken the causal link between dumped imports and injury⁽²⁾. This was due to the fact that demand for solar modules remained relatively high over the same period 2009-2012.

(144) Consequently, the level of consumption of solar modules, and as a result the demand of solar glass, remained high during the period considered. Its slight decrease in 2012 cannot be regarded on its own as a factor such as to break the causal link established between the dumped imports from the PRC and the material injury by the Union industry.

5.2.5. Conclusion

(145) The investigation has established a causal link between the material injury suffered by the Union industry and the dumped imports from the PRC. Other possible causes of injury, such as imports from other third countries, consumption and the market situation of some of their users such as solar modules were analysed and none of them, analysed both individually and cumulatively, were found to be such as to break the causal link established between the dumped imports from the PRC and the material injury suffered by the Union industry.

⁽¹⁾ Tables 1-a and 1-b on p. 16 of Commission Regulation (EU) No 513/2013 of 4 June 2013 imposing a provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China and amending Regulation (EU) No 182/2013 making these imports originating in or consigned from the People's Republic of China subject to registration, OJ L 152, 5.6.2013, p. 5. ('Solar Panels Regulation'). According to section B of the Solar Panels Regulation, the product covered by that investigation is crystalline silicon photovoltaic modules or panels and cells and wafers of the type used in crystalline silicon photovoltaic modules or panels. Therefore, thin-film photovoltaic modules are not subject to that investigation and their consumption is not covered.

⁽²⁾ See section 3.2 of the Solar Panels Regulation.

(146) Based on the above analysis, which has properly distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports, it is therefore provisionally concluded that the dumped imports from the country concerned have caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation.

6. UNION INTEREST

(147) In accordance with Article 21 of the basic Regulation, the Commission examined whether, despite the provisional conclusion on injurious dumping, compelling reasons existed for concluding that it was not in the Union interest to adopt measures in this particular case. The analysis of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, raw materials suppliers and users of the product concerned.

6.1. Interest of the Union industry

(148) The Union industry directly employed about 860 people in the IP in the production and sale of the like product. The investigation established that the Union industry has suffered material injury caused by the dumped imports from the country concerned during the investigation period. Some Union producers were already forced to close down their production facilities while some others have faced insolvency. In the absence of measures, a further deterioration in the Union industry's economic situation appears very likely.

(149) It is expected that the imposition of anti-dumping duties will restore fair trade conditions on the Union market, allowing the Union industry to align the prices of the like product to reflect the costs of production thus improving its profitability. It can also be expected that the imposition of measures would enable the Union industry to regain at least part of the market share lost during the period considered, with a positive impact on its overall financial situation. Moreover, the Union industry should be able to have better access to capital and to further invest in R&D and innovation in the solar glass market. Finally, it is likely that the Union producers who were forced to cease production as a result of the pressure of the Chinese dumped imports might restart their business activity. Overall, under this scenario, not only the existing jobs would be secured, but there would also be a reasonable prospect for further production expansion and increase in employment.

(150) Should measures not be imposed, further losses in the market share are expected with a further deterioration of the Union industry's profitability. This would be unsustainable in the short to medium-term. As a consequence, in addition to the large number of the Union producers that were already forced out of the market, other producers could be facing insolvency which would in the short to medium term lead to a likely disappearance of the Union industry with the consequent significant impact of the existing jobs.

(151) It is therefore provisionally concluded that the imposition of the anti-dumping duties would be in the interest of the Union industry.

6.2. Interest of unrelated importers and traders

(152) For the two cooperating importers the major business activity consisted of trading the product concerned. Both of them had diversified sources of the product concerned, i.e. they were not only sourcing from the PRC, but also from the Union and third countries.

(153) An argument was put forward that the imposition of measures on the product concerned will negatively affect the importers' business activity. Firstly, the imposition of duties should not result in the elimination of all imports from the PRC. Secondly, although it can be expected that the imposition of measures may have a negative effect on the financial situation of the importers importing only or mainly from the PRC, in view of the possibility to source from third countries, the importers can be expected to be flexible and shift their sources of supply if deemed necessary.

(154) It is therefore provisionally concluded that the imposition of measures at the proposed level may have a certain negative impact on the situation of unrelated importers of the product concerned, but that its impact is mitigated by the fact that importers and traders can use other sources of supply, both from third countries and the Union industry, the latter having the capacity to increase its production, and in any case it would not weight out the positive impact on other parties.

6.3. Interest of raw materials suppliers

(155) No raw materials supplier cooperated with the investigation. In the absence of data from such suppliers, there was no evidence that the imposition of measures would be against the interest of these parties.

6.4. Interest of users

(156) All users that responded are producers of solar modules and/or thermal collectors. Three users are firmly in favour of imposing anti-dumping duties, arguing that the Union industry produces better quality solar glass which cannot always be supplied by Chinese companies. By contrast, three other users were against the imposition of anti-dumping measures. Those users expect that the imposition of anti-dumping duties would have a negative impact on their business. They expect not to be able to pass on the increase in prices to final consumers given the dire situation of the solar modules industry.

(157) According to the information submitted by users, solar glass constitutes only around 6-8 % of the total costs of the solar modules. Thus, solar glass constitutes only a limited part of the costs and of the final value of the photovoltaic modules. In addition, it can be estimated that if anti-dumping duties are imposed on solar glass imported from the PRC, the impact on the total costs of the solar modules should be less than 1 %. This is mainly due to the fact that cooperating users buy significant quantities of the solar glass from Union producers. Accordingly, while a possible imposition of anti-dumping duties will most probably slightly increase input prices for solar modules, they should not have a significant negative impact on the costs and on the final prices of the Union solar modules industry.

(158) In addition, some of the users already have other sources of supply such as Turkey and India which would not be negatively influenced by the imposition of anti-dumping duties. Other users can switch to other sources of supply as well, either from third countries or from the Union industry.

(159) In view of the above, the arguments brought forward by some of the users against the imposition of measures are provisionally rejected.

6.5. Competition aspects

(160) One importer argued that since some Union producers participated in a world cartel of flat glass (solar glass is part of it) and were fined by the European Commission in 2007, they are using the anti-dumping tool as a way of recuperating the losses they made on fines for the cartel and on losing market share in the Union. In addition, if the access to the Union market were to be restricted by means of anti-dumping duties, there will be stronger incentives for the Union producers to enter into a cartel or other anti-competitive behaviour in respect of products with low volume leverage capabilities in the Union like home furnishing products.

(161) These arguments are provisionally rejected. Firstly, the cartel has ceased to function in 2007 at the latest. Therefore, the effects of the cartel in the past had no impact on the industry during the period considered. Secondly, it did not concern any of the sampled Union producers and the majority of the current Union producers with highest sales volume. Thirdly, the possible imposition of anti-dumping duties is not expected to have any impact on the competitive behaviour of the Union industry since, on the one hand, it will not change the structure of the Union market and, on the other hand, companies have a general duty to comply with the applicable Union and national competition rules, irrespective of whether duties are imposed or not.

(162) It was also argued by an importer that the imposition of duties would have a negative impact on the Union market of antireflective coating of solar glass. This market, identified by the importer as a related market, is allegedly dominated by the Union producers and the imposition of measures would reinforce their position to the detriment of competing providers of anti-reflective coating. Furthermore, it was stated that importers faced difficulties in obtaining orders from the Union producers or in having such orders delivered within a reasonable period of time and at reasonable prices.

(163) Firstly, the market of anti-reflective coating is part of the investigation and not a related market. The investigation showed that indeed Union producers still remain competitive on this niche market despite the relatively higher prices they charge thanks to the seemingly lower quality of the coated solar glass imported from the PRC. No evidence was however provided that the Union industry would not be able to meet the demand of a possible increase of antireflective coated solar glass. Consequently, this argument is rejected at this stage. Regarding the claims that Union producers have refused providing orders or on-time delivery at reasonable prices, it is entirely up to each producer to choose its commercial strategy to the extent that such producer or producers do not enjoy single or joint dominance on the relevant market. There is sufficient competition on the Union market in order to change and/or diversify suppliers. Therefore, this argument is provisionally rejected as well.

6.6. Conclusion on Union interest

(164) In view of the above, it was provisionally concluded that, based on an appreciation of all the various interests taken as a whole, including the interest of the Union industry, importers and users, no compelling reasons exist against the imposition of provisional measures on imports of solar glass originating in the PRC.

7. PROVISIONAL ANTI-DUMPING MEASURES

(165) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, provisional measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports.

7.1. Injury elimination level

(166) For the purpose of determining the level of these measures, account was taken of the dumping margins found and the amount of duty necessary to eliminate the injury suffered by the Union industry, without exceeding the dumping margins found.

(167) When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Union industry to cover its costs of production and to obtain a profit before tax on the sales of the like product in the Union that could be reasonably achieved by an industry of this type in the sector under normal conditions of competition, i.e. in the absence of dumped imports. A profit margin of 8,3 % of turnover is regarded as an appropriate minimum which the Union industry could have expected to obtain in the absence of injurious dumping. This profit margin is based on the average profit achieved by the sampled Union producers in 2010 when the imports of the product concerned were still small and therefore could not have distorted the normal conditions of competition yet.

(168) On this basis, a non-injurious price was calculated for the Union industry of the like product. The non-injurious price was obtained by adding the above-mentioned profit margin of 8,3 % to the cost of production during the IP of the sampled Union producers.

(169) The necessary price increase was then determined on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in the PRC, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the IP. Any difference resulting from this comparison was then expressed as a percentage of the weighted average import CIF value.

7.2. Provisional measures

(170) In the light of the foregoing, and in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping measures should be imposed on imports of solar glass originating in the PRC at the level of the lower of the dumping and the injury margins, in accordance with the lesser duty rule.

- (171) On the basis of the above, the anti-dumping duty rates have been established by comparing the injury elimination margins and the dumping margins. Consequently, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, are as follows:

Company	Dumping margin	Injury margin	Provisional anti-dumping duty
Xinyi Group	74,0 %	39,3 %	39,3 %
Hehe Group	75,3 %	32,3 %	32,3 %
Flat Glass Group	86,2 %	42,1 %	42,1 %
Henan Yuhua	31,9 %	17,1 %	17,1 %
Other cooperating companies	79,8 %	38,4 %	38,4 %
All other companies	86,2 %	42,1 %	42,1 %

- (172) 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 this investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of product concerned originating in the countries concerned and produced by the companies and thus by the specific legal entities mentioned. Imported product concerned 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'. Due to the fact that there was high level of cooperation from the exporting producers (above 80 %, see recital (15) above), this duty rate is based on the highest individual injury margin established for the sampled exporting producers. The duty applicable to 'other cooperating companies' is based on the weighted average of the sampled exporters and applies to all cooperating non-sampled companies (except for Henan Yuhua, which is subject to individually established duty following its request for individual examination (see recital (48) above).

- (173) 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⁾ 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.

7.3. Final provisions

- (174) In the interests 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. The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation. 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 imposed on imports of solar glass consisting of tempered soda-lime-flat-glass, with an iron content of less than 300 ppm, a solar transmittance of more than 88 % (measured according to AM1,5 300-2 500 nm), a resistance to heat up to 250 °C (measured according to EN 12150), a resistance to thermal shocks of $\Delta 150$ K (measured according to EN 12150) and having a mechanical strength of 90 N/mm² or more (measured according to EN 1288-3), currently falling within CN code ex 7007 19 80 (TARIC code 7007 19 80 10) and originating in the People's Republic of China.

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

Company	Provisional anti-dumping duty	TARIC additional code
Xinyi PV Products (Anhui) Holdings Ltd;	39,3 %	B943
Zhejiang Hehe Photovoltaic Glass Technology Co., Ltd;	32,3 %	B944
Zhejiang Jiafu Glass Co., Ltd; Flat Solar Glass Group Co., Ltd; Shanghai Flat Glass Co., Ltd	42,1 %	B945
Henan Yuhua New Material Co., Ltd	17,1 %	B946
Other cooperating companies listed in Annex I	38,4 %	
All other companies	42,1 %	B999

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, 1049 Brussels, Belgium.

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty applicable to all other companies shall apply.

4. 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.

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

Article 2

1. Without prejudice to Article 20 of Council Regulation (EC) No 1225/2009, interested parties may request disclosure

of 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 and/or the Hearing Officer for DG Trade within one month of the date of entry into force of this Regulation.

2. 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, 26 November 2013.

For the Commission

The President

José Manuel BARROSO

ANNEX I

Cooperating exporting producers not sampled and not granted individual examination

Name	TARIC additional code
Henan Ancai Hi-Tech Co., Ltd	B947
Henan Succeed Photovoltaic Materials Corporation	B948
Avic Sanxin Sol-Glass Co. Ltd; Avic (Hainan) Special Glass Material Co., Ltd	B949
Wuxi Haida Safety Glass Co., Ltd	B950
Dongguan CSG Solar Glass Co., Ltd	B951
Pilkington Solar Taicang, Limited	B952
Zibo Jinxing Glass Co., Ltd	B953
Novatech Glass Co., Ltd	B954

ANNEX II

A declaration signed by an official of the entity issuing the commercial voice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

1. The name and function of the official of the entity issuing the commercial invoice.
2. The following declaration: 'I, the undersigned, certify that the (volume) of solar glass sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the PRC. I declare that the information provided in this invoice is complete and correct.'
3. Date and signature,

COMMISSION IMPLEMENTING REGULATION (EU) No 1206/2013**of 26 November 2013****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, 26 November 2013.

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

*Jerzy PLEWA
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	AL	48,7
	MA	40,3
	MK	36,9
	TR	65,0
	ZZ	47,7
0707 00 05	AL	52,8
	TR	84,7
	ZZ	68,8
0709 93 10	MA	148,6
	TR	139,6
	ZZ	144,1
0805 20 10	MA	67,0
	TR	76,1
	ZA	87,1
	ZZ	76,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	PK	59,4
	SZ	56,2
	TR	73,8
	UY	56,2
	ZA	192,9
	ZZ	87,7
0805 50 10	TR	70,6
	ZZ	70,6
0808 10 80	BA	45,7
	MK	41,5
	US	135,1
	ZA	116,3
	ZZ	84,7
0808 30 90	TR	116,7
	ZZ	116,7

⁽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'.

DECISIONS

COUNCIL IMPLEMENTING DECISION

of 15 November 2013

authorising Romania to continue to apply a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax

(2013/676/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

order to designate the recipient as the person liable for the payment of VAT in the case of supplies of wood products by taxable persons.

(5) Prior to the former authorisation to apply reverse charge to the supplies of wood, Romania had encountered problems in the timber market because of the nature of the market and the businesses involved. There is a large number of small enterprises in this sector which the Romanian authorities have found difficult to control. Designating the recipient as the person liable for the payment of VAT has, according to the Romanian authorities, had the effect of preventing tax evasion and avoidance in this sector and therefore remains justified.

(1) By letter registered with the Secretariat-General of the Commission on 13 March 2013, Romania requested authorisation for the extension of a special measure derogating from Article 193 of Directive 2006/112/EC in relation to supplies of wood products.

(6) The measure is proportionate to the objectives pursued since it is not intended to apply generally, but only to very specific operations in a sector which poses considerable problems of tax evasion or avoidance.

(2) In accordance with the second subparagraph of Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States by letter dated 17 June 2013 of the request made by Romania. By letter dated 18 June 2013, the Commission notified Romania that it had all the information it considered necessary for appraisal of the request.

(7) The measure should not, in the Commission's view, have any adverse impact on the prevention of fraud at the retail level or in other sectors or in other Member States.

(3) Article 193 of Directive 2006/112/EC provides that the taxable person supplying the goods or services is, as a general rule, liable for the payment of value added tax (VAT) to the tax authorities.

(8) The authorisation should be limited in time until 31 December 2016.

(4) Council Implementing Decision 2010/583/EU ⁽²⁾ authorised Romania to apply a derogating measure pursuant to Article 395 of Directive 2006/112/EC in

(9) In the event that Romania requires a further extension beyond 2016, a report together with the extension request should be submitted to the Commission no later than 1 April 2016. In light of the experience gained up to that date, an assessment should be made on whether or not the derogation remains justified.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Implementing Decision 2010/583/EU of 27 September 2010 authorising Romania to introduce a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of value added tax (OJ L 256, 30.9.2010, p. 27).

(10) The derogation has no adverse impact on the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 193 of Directive 2006/112/EC, Romania is hereby authorised until 31 December 2016 to designate the taxable person to whom the supplies of goods or services referred to in Article 2 of this Decision are made as the person liable for the payment of the tax.

Article 2

The derogation provided for in Article 1 shall apply to supplies of wood products by taxable persons including standing timber, round or cleft working wood, fuel wood, timber products, as well as square edged or chipped wood and wood in the rough, processed or semi-manufactured wood.

Article 3

Any request for the extension of the measure provided for in this Decision shall be submitted to the Commission no later than 1 April 2016, and shall be accompanied by a report which includes an assessment of the efficiency of the measure and an evaluation of the risk of fraud in the wood sector.

Article 4

This Decision is addressed to Romania.

Done at Brussels, 15 November 2013.

For the Council
The President
R. ŠADŽIUS

COUNCIL IMPLEMENTING DECISION

of 15 November 2013

authorising Luxembourg to introduce a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax

(2013/677/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By letter registered with the Secretariat-General of the Commission on 24 October 2012, Luxembourg requested authorisation to apply a measure derogating from Article 285 of Directive 2006/112/EC, allowing Luxembourg to exempt from value added tax (VAT) taxable persons whose annual turnover is no higher than EUR 25 000. Through that measure, those taxable persons would be exempted from all or some of the obligations in relation to VAT referred to in Chapters 2 to 6 of Title XI of Directive 2006/112/EC.

(2) In accordance with Article 395(2) of Directive 2006/112/EC, the Commission informed the other Member States of the request made by Luxembourg by letter dated 9 November 2012. By letter dated 12 November 2012, the Commission notified Luxembourg that it had all the information necessary to consider the request.

(3) According to Article 285 of Directive 2006/112/EC, Member States, which have not exercised the option under Article 14 of Second Council Directive 67/228/EEC ⁽²⁾, may exempt from VAT taxable persons whose annual turnover is no higher than EUR 5 000 or the equivalent in national currency and may also grant graduated tax relief to taxable persons whose annual turnover exceeds the ceiling fixed by them for its application.

(4) Luxembourg has informed the Commission that it currently exempts from VAT taxable persons whose annual turnover is no higher than EUR 10 000 and that it makes use of the option of granting graduated

tax relief with respect to taxable persons whose annual turnover is between EUR 10 000 and EUR 25 000. Luxembourg has requested the authorisation to exempt from VAT, as a derogating measure, taxable persons whose annual turnover is no higher than EUR 25 000.

(5) A higher threshold for the special scheme is a simplification measure, in so far as it may significantly reduce the VAT obligations of small businesses and would enable Luxembourg to cease applying the graduated tax relief scheme that is burdensome for businesses. Taxable persons should be still able to opt for the normal VAT arrangements.

(6) On 29 October 2004, the Commission has adopted a proposal for a Council Directive amending Sixth Council Directive 77/388/EEC ⁽³⁾ with a view to simplifying value added tax obligations, which included provisions aimed at allowing Member States to set the annual turnover ceiling for the VAT exemption scheme at up to EUR 100 000 or the equivalent in national currency, with the possibility of updating that amount each year. This Decision is in line with that proposal.

(7) The derogating measure has only a negligible effect on the overall amount of tax collected at the stage of final consumption and will not adversely affect the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 285 of Directive 2006/112/EC, Luxembourg is authorised to exempt from VAT taxable persons whose annual turnover is no higher than EUR 25 000.

Article 2

This Decision shall take effect on the day of its notification.

This Decision shall apply until the date of entry into force of Union rules amending the amounts of the annual turnover ceilings below which taxable persons may qualify for VAT exemption or until 31 December 2016, whichever date is earlier.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Second Council Directive 67/228/EEC of 11 April 1967 on the harmonization of legislation of Member States concerning turnover taxes, structure and procedures for application of the common system of value added tax (OJ 71, 14.4.1967, p. 1303/67).

⁽³⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

Article 3

This Decision is addressed to the Grand Duchy of Luxembourg.

Done at Brussels, 15 November 2013.

For the Council
The President
R. ŠADŽIUS

COUNCIL IMPLEMENTING DECISION

of 15 November 2013

authorising the Italian Republic to continue to apply a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax

(2013/678/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By a letter registered with the Commission's Secretariat-General on 8 April 2013, Italy requested authorisation for a measure derogating from Article 285 of Directive 2006/112/EC in order to continue to exempt from value added tax (VAT) certain taxable persons whose annual turnover falls below a certain threshold, and to raise this threshold from EUR 30 000 to EUR 65 000. Through that measure, those taxable persons would be exempt from certain or all of the obligations in relation to VAT referred to in Chapters 2 to 6 of Title XI of Directive 2006/112/EC.

(2) The Commission informed the other Member States by letter dated 10 June 2013 of the request made by Italy. By letter dated 14 June 2013, the Commission notified Italy that it had all the information necessary to consider the request.

(3) A special scheme for small enterprises is already available to Member States under Title XII of Directive 2006/112/EC. The extended measure derogates from Article 285 of that Directive in its application to Italy only in so far as the annual turnover threshold for the scheme is higher than the EUR 5 000 threshold.

(4) By Council Decision 2008/737/EC ⁽²⁾, Italy was authorised to exempt, as a derogating measure, taxable persons whose annual turnover is no higher than EUR 30 000 until 31 December 2010. The application of that derogation was subsequently extended until 31 December 2013 by Council Implementing Decision 2010/688/EU ⁽³⁾. Given that that threshold has resulted in reduced VAT obligations for smaller businesses, Italy should be authorised to apply that measure for a further limited period, and to increase the threshold to EUR 65 000. Taxable persons should still be able to opt for the normal VAT arrangements.

(5) For the sake of making the measure available to a greater number of small and medium sized enterprises (SMEs), and thereby corresponding to the objectives of Commission Communication entitled '“Think Small First” — A “Small Business Act” for Europe', Italy should be authorised to increase the annual turnover threshold under which certain taxable persons can be VAT exempt from EUR 30 000 to EUR 65 000.

(6) On 29 October 2004 the Commission adopted a proposal for a Council Directive amending Directive 77/388/EEC ⁽⁴⁾ with a view to simplifying the value added tax obligations, which included provisions aimed at allowing Member States to set the annual turnover threshold for the VAT exemption scheme at up to EUR 100 000 or the equivalent in national currency, with the possibility of updating that amount each year. The extension request submitted by Italy is compatible with that proposal, on which the Council has not yet been able to reach an agreement.

(7) From information provided by Italy, the derogating measure only has a negligible impact on the overall amount of tax revenue collected at the final stage of consumption and has no impact on the Union's own resources accruing from VAT,

⁽²⁾ Council Decision 2008/737/EC of 15 September 2008 authorising the Italian Republic to apply a measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 249, 18.9.2008, p. 13).

⁽³⁾ Council Implementing Decision 2010/688/EU of 15 October 2010 authorising the Italian Republic to continue to apply a special measure derogating from Article 285 of Directive 2006/112/EC on the common system of value added tax (OJ L 294, 12.11.2010, p. 12).

⁽⁴⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 285 of Directive 2006/112/EC, Italy is authorised to exempt from VAT taxable persons whose annual turnover is no higher than EUR 65 000.

Italy may increase that threshold in order to maintain the value of the exemption in real terms.

Article 2

This Decision shall take effect on the day of its notification.

This Decision shall apply from 1 January 2014 until the entry into force of a Directive amending the amounts of the annual

turnover ceilings below which taxable persons may be exempted from VAT, or until 31 December 2016, whichever is the earlier.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 15 November 2013.

For the Council

The President

R. ŠADŽIUS

COUNCIL IMPLEMENTING DECISION

of 15 November 2013

amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax

(2013/679/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC on 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By a letter registered with the Secretariat-General of the Commission on 2 April 2013 Italy requested authorisation to extend a measure derogating from Article 26(1)(a) and Article 168 of Directive 2006/112/EC in order to continue to restrict the right of deduction in relation to expenditure on certain motorised road vehicles not wholly used for business purposes.
- (2) The Commission informed the other Member States of the request made by Italy by letter dated 10 June 2013. By letter dated 14 June 2013, the Commission notified Italy that it had all the information necessary to consider the request.
- (3) Council Decision 2007/441/EC ⁽²⁾ authorises Italy to limit the right of deduction of value added tax (VAT) charged on expenditure on motorised road vehicles not wholly used for business purposes to 40 %. Decision 2007/441/EC also provides that the use for private purposes of those vehicles which had been subject to a right of deduction restriction under that Decision was not to be considered as a supply for a consideration. In addition, Decision 2007/441/EC contains definitions

of the vehicles and expenditure included in the scope of that Decision, and a list of vehicles which are explicitly excluded from it. Decision 2007/441/EC was amended by Council Implementing Decision 2010/748/EU ⁽³⁾, setting the expiry date to 31 December 2013.

- (4) In accordance with Article 6 of Decision 2007/441/EC, Italy submitted a report to the Commission covering the application of that Decision which included a review of the percentage restriction. The information provided by Italy still shows that a restriction of the right of deduction to 40 % corresponds to the actual circumstances as regards the ratio of business to non-business use of the vehicles concerned. Italy should therefore be authorised to apply the measure for a further limited period, until 31 December 2016.
- (5) In the event that Italy requires a further extension beyond 2016, a report together with the extension request should be submitted to the Commission no later than 1 April 2016.
- (6) On 29 October 2004, the Commission adopted a proposal for a Council Directive amending Directive 77/388/EEC ⁽⁴⁾ with a view to simplifying the value added tax obligations. The derogating measures provided for in this Decision should expire on the entry into force of such an amending Directive, if that date is earlier than the date of expiry provided for in this Decision.
- (7) The derogation has no impact on the Union's own resources accruing from VAT.
- (8) Decision 2007/441/EC should therefore be amended accordingly,

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Decision 2007/441/EC of 18 June 2007 authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 165, 27.6.2007, p. 33).

⁽³⁾ Council Implementing Decision 2010/748/EU of 29 November 2010 amending Decision 2007/441/EC authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax (OJ L 318, 4.12.2010, p. 45).

⁽⁴⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

Decision 2007/441/EC is amended as follows:

(1) Article 6 is replaced by the following:

Article 6

Any request for the extension of the measures provided for in this Decision shall be submitted to the Commission by 1 April 2016.

Any request for the extension of those measures shall be accompanied by a report which includes a review of the percentage restriction applied on the right to deduct VAT charged on expenditure on motorised road vehicles not wholly used for business purposes.;

(2) Article 7 is replaced by the following:

Article 7

This Decision shall expire on the date of entry into force of Union rules determining the expenditure relating to

motorised road vehicles which is not eligible for a full deduction of value added tax, and on 31 December 2016 at the latest.;

Article 2

This Decision shall take effect on the day of its notification.

It shall apply from 1 January 2014.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 15 November 2013.

For the Council

The President

R. ŠADŽIUS

COUNCIL IMPLEMENTING DECISION**of 15 November 2013****authorising the Kingdom of Denmark and the Kingdom of Sweden to extend the application of a special measure derogating from Articles 168, 169, 170 and 171 of Directive 2006/112/EC on the common system of value added tax**

(2013/680/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC on 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

special measure enabling taxpayers to recover VAT from a single administration. The authorisation was first granted by Council Decision 2000/91/EC ⁽²⁾ and extended by Council Decisions 2003/65/EC ⁽³⁾ and 2007/132/EC ⁽⁴⁾.

(5) The legal and factual situation which justified that derogation has not changed and continues to exist. Denmark and Sweden should therefore be authorised to apply the special measure during a further limited period.

(6) The derogation has no adverse impact on the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Articles 168, 169, 170 and 171 of Directive 2006/112/EC, Sweden and Denmark are hereby authorised to apply the following procedure for the recovery of VAT on tolls paid for the use of the Öresund fixed link between the two countries:

- (1) By letters registered with the Secretariat-General of the Commission on 3 and 4 April 2013 respectively, Denmark and Sweden requested authorisation to extend the application of a special measure derogating from Articles 168, 169, 170 and 171 of Directive 2006/112/EC requiring taxable persons to exercise their right to deduct or obtain a refund of value added tax (VAT) in the Member State where it was paid.
- (2) The Commission informed the other Member States by letter dated 12 June 2013 of the requests made by Denmark and Sweden. By letter dated 14 June 2013, the Commission notified Denmark and Sweden that it had all the information it considered necessary for the appraisal of the requests.
- (3) Those requests for derogation relate to the recovery of VAT paid on tolls for the use of the Öresund fixed link between Denmark and Sweden. Under the VAT rules on the place of supply of services connected with immovable property, part of the VAT on tolls for the Öresund fixed link is payable to Denmark and part to Sweden.
- (4) By way of derogation from the requirement for taxable persons to exercise their right to deduct or obtain a refund of VAT in the Member State where it was paid, Denmark and Sweden were authorised to introduce a

- (a) taxable persons established in Denmark may exercise their right to deduct the VAT paid when using the part of the link located on Swedish territory by entering it in the periodic returns to be lodged in Denmark;
- (b) taxable persons established in Sweden may exercise their right to deduct the VAT paid when using the part of the link located on Danish territory by entering it in the periodic returns to be lodged in Sweden;

⁽²⁾ Council Decision 2000/91/EC of 24 January 2000 authorising the Kingdom of Denmark and the Kingdom of Sweden to apply a special measure derogating from Article 17 of the Sixth Council Directive (77/338/EEC) on the harmonisation of the laws of the Member States relating to turnover taxes (OJ L 28, 3.2.2000, p. 38).

⁽³⁾ Council Decision 2003/65/EC of 21 January 2003 extending the application of Decision 2000/91/EC authorising the Kingdom of Denmark and the Kingdom of Sweden to apply a measure derogating from Article 17 of the Sixth Council Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes (OJ L 25, 30.1.2003, p. 40).

⁽⁴⁾ Council Decision 2007/132/EC of 30 January 2007 extending the application of Decision 2000/91/EC authorising the Kingdom of Denmark and the Kingdom of Sweden to apply a measure derogating from Article 17 of the Sixth Council Directive (77/388/EEC) on the harmonisation of the laws of the Member States relating to turnover taxes (OJ L 57, 24.2.2007, p. 10).

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

- (c) taxable persons who are not established in either of the above Member States must apply to the Swedish authorities to obtain refunds of the VAT on tolls, including that paid for using the section of the link located on Danish territory, under the procedure laid down in Council Directive 2008/9/EC ⁽¹⁾ or Council Directive 86/560/EEC ⁽²⁾.

Article 2

This Decision shall apply from 1 January 2014 until 31 December 2020.

Article 3

This Decision is addressed to the Kingdom of Denmark and to the Kingdom of Sweden.

Done at Brussels, 15 November 2013.

For the Council

The President

R. ŠADŽIUS

⁽¹⁾ Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ L 44, 20.2.2008, p. 23).

⁽²⁾ Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover taxes — Arrangements for the refund of value added tax to taxable persons not established in Community territory (OJ L 326, 21.11.1986, p. 40).

COUNCIL IMPLEMENTING DECISION

of 15 November 2013

amending Decision 2007/884/EC authorising the United Kingdom to continue to apply a measure derogating from Articles 26(1)(a), 168 and 169 of Directive 2006/112/EC on the common system of value added tax

(2013/681/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾, and in particular Article 395(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By a letter registered with the Secretariat-General of the Commission on 2 April 2013, the United Kingdom requested authorisation to extend a derogating measure in order to continue to restrict the right of deduction of value added tax (VAT) by the hirer or lessee on charges for the hire or lease of a car where the car is not used entirely for business purposes.
- (2) The Commission informed the other Member States of the request made by the United Kingdom by letter dated 19 June 2013. By letter dated 20 June 2013, the Commission notified the United Kingdom that it had all the information necessary to consider the request.
- (3) Council Decision 2007/884/EC ⁽²⁾, as amended by Council Implementing Decision 2011/37/EU ⁽³⁾, authorised the United Kingdom to restrict to 50 % the right of the hirer or lessee to deduct input VAT on charges for the hire or lease of a car where the car was not used entirely for business purposes. The United Kingdom was also allowed not to treat as supplies of services for consideration the private use of a car hired or leased by a taxable person for his business purposes. That

simplification measure removed the need for the hirer or the lessee to keep records of private mileage travelled in business cars and to account for tax on the actual private mileage of each car.

- (4) According to the report provided by the United Kingdom, the restriction to 50 % still corresponds to the actual circumstances as regards the business and the non-business use by the hirer or lessee of the vehicles concerned. It is therefore appropriate that the United Kingdom be authorised to apply the measure until 31 December 2016.
- (5) In the event that the United Kingdom considers that a further extension beyond 2016 is necessary, it should submit a report which includes a review of the percentage applied together with an extension request to the Commission no later than 1 April 2016.
- (6) On 29 October 2004, the Commission adopted a proposal for a Council Directive amending Directive 77/388/EEC ⁽⁴⁾, which includes the harmonisation of the categories of expenses for which exclusions of the right of deduction may apply. Directive 77/388/EEC has been replaced by Directive 2006/112/EC. According to that proposal, exclusions on the right to deduct may be applied to motorised road vehicles. The derogating measures provided for in this Decision should expire on the date of the entry into force of such an amending Directive, if that date is earlier than 31 December 2016.
- (7) The derogation has only a negligible effect on the overall amount of tax revenue collected at the stage of final consumption and has no adverse impact on the Union's own resources accruing from VAT.
- (8) Decision 2007/884/EC should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Article 3 of Decision 2007/884/EC is replaced by the following:

⁽¹⁾ OJ L 347, 11.12.2006, p. 1.

⁽²⁾ Council Decision 2007/884/EC of 20 December 2007 authorising the United Kingdom to continue to apply a measure derogating from Articles 26(1)(a), 168 and 169 of Directive 2006/112/EC on the common system of value added tax (OJ L 346, 29.12.2007, p. 21).

⁽³⁾ Council Implementing Decision 2011/37/EU of 18 January 2011 amending Decision 2007/884/EC authorising the United Kingdom to continue to apply a measure derogating from Articles 26(1)(a), 168 and 169 of Directive 2006/112/EC on the common system of value added tax (OJ L 19, 22.1.2011, p. 11).

⁽⁴⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

'Article 3

This Decision shall expire on the date of entry into force of Union rules determining the expenditure relating to motorised road vehicles that is not eligible for full deduction of VAT, or on 31 December 2016, whichever is the earlier.

Any request for extension of the measures provided for in this Decision shall be accompanied by a report, submitted to the Commission by 1 April 2016, which includes a review of the percentage restriction applied on the right to deduct VAT on the hire or lease of cars not entirely used for business purposes.'

Article 2

This Decision shall take effect on the day of its notification.

It shall apply from 1 January 2014.

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 15 November 2013.

For the Council

The President

R. ŠADŽIUS

COUNCIL DECISION
of 19 November 2013
appointing one member of the Management Board of the European Chemicals Agency
(2013/682/EU)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency ⁽¹⁾, and in particular Article 79 thereof,

Whereas:

- (1) Article 79 of Regulation (EC) No 1907/2006 provides that the Council is to appoint as members of the Management Board of the European Chemicals Agency ('the Management Board') one representative from each Member State.
- (2) By its Decision of 17 May 2011 ⁽²⁾, the Council appointed 15 members of the Management Board.
- (3) The Romanian Government has informed the Council of its intention to replace the Romanian representative on

the Management Board and has submitted a nomination for a new representative, who should be appointed for a period which runs until 31 May 2015,

HAS ADOPTED THIS DECISION:

Article 1

Ms Liliana Luminița TÎRCHILĂ, of Romanian nationality, born on 1 February 1960, shall be appointed member of the Management Board of the European Chemicals Agency in place of Mr Ionuț GEORGESCU for the period from 19 November 2013 to 31 May 2015.

Article 2

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

Done at Brussels, 19 November 2013.

For the Council
The President
L. LINKEVIČIUS

⁽¹⁾ OJ L 396, 30.12.2006, p. 1.

⁽²⁾ OJ C 151, 21.5.2011, p. 1.

COUNCIL DECISION
of 19 November 2013
appointing a French member of the European Economic and Social Committee
(2013/683/EU)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 302 thereof,

Having regard to the proposal of the French Government,

Having regard to the opinion of the European Commission,

Whereas:

- (1) On 13 September 2010 the Council adopted Decision 2010/570/EU, Euratom appointing the members of the European Economic and Social Committee for the period from 21 September 2010 to 20 September 2015 ⁽¹⁾.
- (2) A member's seat on the European Economic and Social Committee has become vacant following the end of the term of office of Mr Gilbert BROS,

Article 1

Mr Christophe HILLAIRET, *Membre du Bureau de l'APCA*, is hereby appointed as a member of the European Economic and Social Committee for the remainder of the current term of office, which runs until 20 September 2015.

Article 2

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

Done at Brussels, 19 November 2013.

For the Council
The President
L. LINKEVIČIUS

⁽¹⁾ OJ L 251, 25.9.2010, p. 8.

COUNCIL DECISION
of 19 November 2013
appointing an Austrian alternate member of the Committee of the Regions
(2013/684/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal from the Austrian Government,

Whereas:

- (1) On 22 December 2009 and 18 January 2010, the Council adopted Decisions 2009/1014/EU ⁽¹⁾ and 2010/29/EU ⁽²⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2010 to 25 January 2015.
- (2) An alternate member's seat on the Committee of the Regions has become vacant following the end of the term of office of Ms Gabriele BURGSTALLER,

HAS ADOPTED THIS DECISION:

Article 1

The following is hereby appointed to the Committee of the Regions as alternate member for the remainder of the current term of office, which runs until 25 January 2015:

— Ms Brigitta PALLAUF, *Landtagspräsidentin Salzburger Landtag*.

Article 2

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

Done at Brussels, 19 November 2013.

For the Council

The President

L. LINKEVIČIUS

⁽¹⁾ OJ L 348, 29.12.2009, p. 22.

⁽²⁾ OJ L 12, 19.1.2010, p. 11.

COUNCIL DECISION 2013/685/CFSP**of 26 November 2013****amending Decision 2010/413/CFSP concerning restrictive measures against Iran**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Decision 2010/413/CFSP of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP⁽¹⁾, and in particular Article 23(2) thereof,

Whereas:

- (1) On 26 July 2010, the Council adopted Decision 2010/413/CFSP concerning restrictive measures against Iran.
- (2) By its judgments of 16 September 2013 in Case T-489/10⁽²⁾, the General Court of the European Union annulled the Council's decisions to include Islamic Republic of Iran Shipping Lines, Bushehr Shipping Co. Ltd, Hafize Darya Shipping Lines (HDSL), Irano – Misr Shipping Co., Irinvestship Ltd, IRISL (Malta) Ltd, IRISL Club, IRISL Europe GmbH, IRISL Marine Services and Engineering Co., ISI Maritime Ltd, Khazar Shipping Lines, Leadmarine, Marble Shipping Ltd, Safiran Payam Darya Shipping Lines (SAPID), Shipping Computer Services Co., Soroush Saramin Asatir Ship Management, South Way Shipping Agency Co. Ltd and Valfajr 8th Shipping Line Co. on the list of persons and entities subject to restrictive measures in Annex II to Decision 2010/413/CFSP.
- (3) Islamic Republic of Iran Shipping Lines, Bushehr Shipping Co. Ltd, Hafize Darya Shipping Lines (HDSL), Irano – Misr Shipping Co., Irinvestship Ltd, IRISL (Malta) Ltd, IRISL Europe GmbH, IRISL Marine Services and Engineering Co., ISI Maritime Ltd, Khazar Shipping Lines, Marble Shipping Ltd, Safiran Payam Darya Shipping Lines (SAPID), Shipping Computer Services Co., Soroush Saramin Asatir Ship Management, South

Way Shipping Agency Co. Ltd and Valfajr 8th Shipping Line Co. should be included again on the list of persons and entities subject to restrictive measures, on the basis of new statements of reasons concerning each of those entities.

- (4) The identifying information in relation to an entity on the list of persons and entities subject to restrictive measures in Annex II to Decision 2010/413/CFSP should be amended.
- (5) Following the judgments of the General Court in Cases T-392/11⁽³⁾, T-404/11⁽⁴⁾ and T-63/2012⁽⁵⁾, Iran Transfo, Sakhte Turbopomp va Kompessor (SATAK) (a.k.a. Turbo Compressor Manufacturer, TCMFG) and Oil Turbo Compressor Co. are not included on the list of persons and entities subject to restrictive measures in Annex II to Decision 2010/413/CFSP.

HAS ADOPTED THIS DECISION:

Article 1

Annex II to Decision 2010/413/CFSP is hereby amended as set out in the Annex to this Decision.

Article 2

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

Done at Brussels, 26 November 2013.

For the Council
The President
L. LINKEVIČIUS

⁽¹⁾ OJ L 195, 27.7.2010, p. 39.

⁽²⁾ Judgement of 16 September 2013 in Case T-489/10, *Islam Republic of Iran Shipping Lines v. Council of the European Union*.

⁽³⁾ Judgment of 16 May 2013 in Case T-392/11, *Iran Transfo v Council of the European Union*

⁽⁴⁾ Judgment of 17 April 2013 in Case T-404/11, *Turbo Compressor Manufacturer (TCMFG) v Council of the European Union*.

⁽⁵⁾ Judgment of 26 October 2012 in Case T-63/12, *Oil Turbo Compressor Co. (Private Joint Stock) v Council of the European Union*.

ANNEX

I. The entities listed below are added to the list set out in Annex II to Decision 2010/413/CFSP

III. **Islamic Republic of the Iran Shipping Lines (IRISL)**

B. *Entities*

	Name	Identifying information	Reasons	Date of listing
1.	Islamic Republic of Iran Shipping Lines (IRISL)	No. 37, Aseman Tower (Sky Tower), Sayyade Shirazee Square, Pasdaran Ave., PO Box 19395-1311, Tehran, Iran; IRISL IMO Nrs: 9051624; 9465849; 7632826; 7632814; 9465760; 8107581; 9226944; 7620550; 9465863; 9226956; 7375363; 9465758; 9270696; 9193214; 8107579; 9193197; 8108559; 8105284; 9465746; 9346524; 9465851; 8112990	IRISL has been involved in the shipment of arms-related materiel from Iran in violation of paragraph 5 of UNSC Resolution 1747(2007). Three clear violations were reported to the UN Security Council Iran Sanctions Committee in 2009.	27.11.2013
2.	Bushehr Shipping Company Limited (a.k.a. Bimeh Iran)	143/1 Tower Road Sliema, Slm 1604, Malta; Registration No. C 37422; c/o Hafiz Darya Shipping Company, No. 60, Ehteshamiyeh Square, 7th Neyestan Street, Pasdaran Avenue, Tehran, Iran; IMO Nr. 9270658	Bushehr Shipping Company Limited is owned by IRISL.	27.11.2013
3.	Hafiz Darya Shipping Lines (HDSL) (a.k.a HDS Lines)	No. 60, Ehteshamiyeh Square, 7th Neyestan Street, Pasdaran Avenue, Tehran, Iran.	HDSL has taken over as beneficial owner a number of Islamic Republic of Iran Shipping Line's (IRISL) vessels. Accordingly, HDSL is acting on behalf of IRISL.	27.11.2013
4.	Irano Misr Shipping Company (a.k.a. Nefertiti Shipping)	6, El Horeya Rd., El Attarein, Alexandria, Egypt; Inside Damietta Port, New Damietta City, Damietta, Egypt; 403, El NahdaSt., Port Said, Port Said, Egypt.	Irano Misr Shipping Company as agent for IRISL in Egypt provides essential services to IRISL.	27.11.2013
5.	Irinvestship Ltd	10 Greycoat Place, London SW1P 1SB, United Kingdom; Company Registration Number # 41101 79	Irinvestship Ltd is owned by IRISL.	27.11.2013
6.	IRISL (Malta) Ltd	Flat 1, 143 Tower Road, Sliema SLM 1604, Malta; Registration No. C 33735	IRISL (Malta) Ltd is majority owned by IRISL, through IRISL Europe GmbH, which is in turn owned by IRISL. Accordingly, IRISL Malta Ltd is controlled by IRISL.	27.11.2013

	Name	Identifying information	Reasons	Date of listing
7.	IRISL Europe GmbH (Hamburg)	Schottweg 5, 22087 Hamburg, Germany; V.A.T. Number DE217283818 Registration No. HRB 81573	IRISL Europe GmbH (Hamburg) is owned by IRISL.	27.11.2013
8.	IRISL Marine Services and Engineering Company	Sarbandar Gas Station, PO Box 199, Bandar Imam Khomeini, Iran; Karim Khan Zand Avenue (or: Karimkhan Avenue), Iran Shahr Shomai (or: Northern Iranshahr Street), No 221, Tehran, Iran; Shahaid Rajaei Port Road, Kilometer of 8, Before Tavanir Power Station, Bandar Abbas, Iran.	IRISL Marine Services and Engineering Company is controlled by IRISL.	27.11.2013
9.	ISI Maritime Limited (Malta)	147/1 St. Lucia Street, Valetta, Vlt 1185, Malta; Registration No. C 28940 c/o IranoHind Shipping Co. Ltd., Mehrshad Street, Sedaghat St., opp. Park Mellat vali-e-asr Ave., Tehran, Iran	ISI Maritime Limited (Malta) is wholly owned by Irano Hind Shipping Company which is in turn majority owned by IRISL. Accordingly, ISI Maritime Limited (Malta) is controlled by IRISL. Irano Hind Shipping Company is designated by the UN as owned, controlled, or acting on behalf of IRISL.	27.11.2013
10.	Khazar Shipping Lines (Bandar Anzali)	End of Shahid Mostafa, Khomeini St., Tohid Square, Bandar Anzali 1711-324, Iran, P.O. Box 43145.	Marble Shipping Limited (Malta) is owned by IRISL.	27.11.2013
11.	Marble Shipping Limited (Malta)	143/1 Tower Road, Sliema, Slm 1604, Malta; Registration No. C 41949	Entity owned by IRISL.	27.11.2013
12.	Safirani Payam Darya (SAPID) Shipping Company (a.k.a. Safiran Payam Darya Shipping Lines, SAPID Shipping Company)	33241 - Narenjestan 8th ST, Artesh Blvd, Aghdasieh, PO Box 19635-1116, Tehran, Iran.	Safirani Payam Darya (SAPID) has taken over as beneficial owner a number of Islamic Republic of Iran Shipping Line's (IRISL) vessels. Accordingly, it is acting on behalf of IRISL.	27.11.2013
13.	Shipping Computer Services Company (SCSCOL)	No 37, Asseman, Shahid Sayyad Shirazees Ave, P.O. Box 1587553-1351, Tehran, Iran.	Shipping Computer Services Company is controlled by IRISL.	27.11.2013
14.	Soroush Saramin Asatir (SSA) (a.k.a. Soroush Sarzamin Asatir Ship Management Company, Rabbaran Omid Darya Ship Management Company, Sealeaders)	No 14 (alt. 5), Shabnam Alley, Fajr Street, Shahid Motahhari Avenue, PO Box 196365-1114, Tehran, Iran.	Soroush Saramin Asatir (SSA) operates and manages a number of Islamic Republic of Iran Shipping Lines (IRISL) vessels. Accordingly, it acts on behalf of IRISL and provides essential services to it.	27.11.2013

	Name	Identifying information	Reasons	Date of listing
15.	South Way Shipping Agency Co. Ltd (a.k.a. Hoopad Darya Shipping Agent)	Hoopad Darya Shipping Agency Company, No 101, Shabnam Alley, Ghaem Magham Street, Tehran, Iran; Bandar Abbas Branch: Hoopad Darya Shipping Agency building, Imam Khomeini Blvd, Bandar Abbas, Iran; Imam Khomieni Branch: Hoopad Darya Shipping Agency building B.I.K. port complex, Bandar Imam Khomeini, Iran; Khorramshahr Branch: Flat no.2-2nd floor, SSL Building, Coastal Blvd, between City Hall and Post Office, Khorramshahr, Iran; Assaluyeh Branch: Opposite to city post office, no.2 telecommunication center, Bandar Assaluyeh, Iran; Chabahar Branch: No address available; Bushehr Branch: No address available.	South Way Shipping Agency Co Ltd manages container terminal operations in Iran and provides fleet personnel services in Bandar Abbas on behalf of IRISL. Accordingly, South Way Shipping Agency Co Ltd is acting on behalf of IRISL.	27.11.2013
16.	Valfajr 8th Shipping Line (a.k.a. Valjafr 8th Shipping Line, Valfajr)	No 119, Corner Shabnam Alley, Shoa Square, Ghaem Magam Farahani, Tehran, Iran P.O. Box 15875/4155 Abyar Alley, Corner of Shahid Azodi St. & Karim Khan Zand Ave., Tehran, Iran; Shahid Azodi St., Karim Khan Zand Ave., Abiar Alley, PO Box 4155, Tehran, Iran.	Valfajr 8th Shipping Line is owned by IRISL.	27.11.2013

II. The entry for the entity set out in Annex II to Decision 2010/413/CFSP listed below are replaced by the entry below

I. Persons and entities involved in nuclear or ballistic missile activities and persons and entities providing support to the Government of Iran

B. Entities

	Name	Identifying information	Reasons	Date of listing
1.	MASNA (Modierat Saakht Niroogahye Atomi Iran) Managing Company for the Construction of Nuclear Power Plants	P.O. Box 14395-1359, Tehran, Iran	Subordinate to AEOI and Novin Energy (both designated under UNSCR 1737). Involved in the development of nuclear reactors.	26.7.2010

COMMISSION IMPLEMENTING DECISION

of 25 November 2013

amending Decision 2009/861/EC on transitional measures under Regulation (EC) No 853/2004 of the European Parliament and of the Council as regard the processing of non-compliant raw milk in certain milk processing establishments in Bulgaria

*(notified under document C(2013) 8031)***(Text with EEA relevance)**

(2013/686/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 853/2004 lays down specific rules on the hygiene of food of animal origin for food business operators. Those rules include hygiene requirements for raw milk and dairy products.
- (2) Commission Decision 2009/861/EC ⁽²⁾ provides for certain derogations from the requirements set out in Subchapters II and III of Chapter I of Section IX of Annex III to Regulation (EC) No 853/2004 for the milk processing establishments in Bulgaria listed in that Decision. That Decision applies until 31 December 2013.
- (3) Accordingly, certain milk processing establishments listed in Annex I to Decision 2009/861/EC may, by way of derogation from the relevant provisions of Regulation (EC) No 853/2004, process compliant and non-compliant milk provided that the processing of compliant and non-compliant milk is carried out on separate production lines. In addition, certain milk processing establishments listed in Annex II to that Decision may process non-compliant milk without separate production lines.
- (4) Bulgaria sent to the Commission a revised and updated list of those milk processing establishments on 12 August 2013.
- (5) In that list, the establishments listed at No 1 (BG 0412010 'Bi Si Si Handel' OOD), No 4 (BG 2012020

'Yotovi' OOD) and No 5 (BG 2512020 'Mizia-Milk' OOD) of the table set out in Annex I to Decision 2009/861/EC have been deleted, as they are now authorised to process only compliant milk to be placed on the intra-Union market.

- (6) In addition, four establishments currently listed in Annex II to Decision 2009/861/EC have been deleted as they are authorised to place dairy products on the intra-Union market, since they are using only compliant milk. Those establishments were listed in the table in Annex II to Decision 2009/861/EC at No 8 (1312023 'Inter-D' OOD), No 71 (BG 2512001 'Mladost-2002' OOD), No 91 (BG 2012019 'Hemus-Milk komers' OOD) and No 95 (2712005 'Nadezhda' OOD).
- (7) In addition, Bulgaria has informed the Commission that, since the date Decision 2009/861/EC took effect, the proportion of raw milk that complies with the requirements of Regulation (EC) No 853/2004, delivered to milk processing establishments in that Member State, has considerably increased. Bulgaria has also established an action plan aimed at covering the entire production chain of milk in that Member State ensuring compliance with Union rules.
- (8) However, according to the reports submitted by Bulgaria on the basis of Article 5 of Decision 2009/861/EC and to the information provided to the Commission by that Member State on 1 August 2013, the milk sector in Bulgaria is still not entirely in conformity with the requirements laid down in Regulation (EC) No 853/2004.
- (9) Considering the efforts made by Bulgaria to bring the milk sector in compliance with the Union rules, with a constant diminution of farms producing non-compliant milk since 2009, it is appropriate to extend the application of the measures provided for in Decision 2009/861/EC until 31 December 2015.
- (10) Bulgaria should provide regular updates to the Commission on the progress made in order to demonstrate that the target of compliance with the Union criteria can be achieved before the end of the period of application of Decision 2009/861/EC, as extended by this Decision.

⁽¹⁾ OJ L 139, 30.4.2004, p. 55.

⁽²⁾ OJ L 314, 1.12.2009, p. 83.

(11) Decision 2009/861/EC should therefore be amended accordingly.

(12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2009/861/EC is amended as follows:

(1) in Article 2, the date '31 December 2013' is replaced by '31 December 2015';

(2) in Article 3, the date '31 December 2013' is replaced by '31 December 2015';

(3) the following Article 4a is inserted:

'Article 4a

1. Bulgaria shall take appropriate measures to ensure that the number of holdings producing non-compliant milk is reduced as follows:

(a) before 30 November 2014, by at least 30 % as compared to the number of such holdings registered on 1 September 2013;

(b) before 31 May 2015, by at least 60 % as compared to the number of such holdings registered on 1 September 2013.

2. In case Bulgaria does not meet the targets for the reduction of the number of holdings referred to in paragraph 1, the Commission shall adopt appropriate measures.;

(4) Article 5 is replaced by the following:

'Article 5

1. Bulgaria shall submit reports to the Commission on the measures taken in accordance with Article 4a(1) and the progress made in bringing the following in compliance with Regulation (EC) No 853/2004:

(a) production holdings producing non-compliant milk;

(b) the system for collecting and transporting non-compliant milk.

The reports for 2014 shall be submitted to the Commission by 30 June and 31 December 2014, at the latest, and the reports for 2015 by 31 May and 31 October 2015, at the latest.

The reports shall be submitted in the form set out in Annex III.

2. The Commission shall closely monitor the progress in bringing the raw milk processed by the establishments listed in Annexes I and II in compliance with the requirements laid down in Regulation (EC) No 853/2004.;

(5) in Article 6, the date '31 December 2013' is replaced by '31 December 2015';

(6) Annexes I and II are replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 25 November 2013.

For the Commission

Tonio BORG

Member of the Commission

ANNEX

‘ANNEX I

List of milk establishments permitted to process compliant and non-compliant milk as referred to in Article 2

No	Veterinary No	Name of establishment	Town/Street or Village/Region
1	BG 0612027	“Mlechen ray-2” EOOD	gr. Vratsa kv. “Bistrets”
2	BG 0612043	ET “Zorov-91 — Dimitar Zorov”	gr. Vratsa Mestnost “Parshevitsa”
3	BG 2112001	“Rodopeya — Belev” EOOD	Ul. “Trakya” 20 Smolyan
4	BG 1212001	“S i S-7” EOOD	gr. Montana “Vrachansko shose” 1
5	BG 2812003	“Balgarski yogurt” OOD	s. Veselinovo, obl. Yambolska

ANNEX II

List of milk processing establishments permitted to process non-compliant milk as referred to as referred to in Article 3

No	Veterinary No	Name establishment	Town/Street or Village/Region
1	BG 2412037	"Stelimeks" EOOD	s. Asen
2	0912015	"Anmar" OOD	s. Padina obsht. Ardino
3	0912016	OOD "Persenski"	s. Zhaltusha obsht. Ardino
4	1012014	ET "Georgi Gushterov DR"	s. Yahinovo
5	1012018	"Evro miyt end milk" EOOD	gr. Kocherinovo obsht. Kocherinovo
6	1112017	ET "Rima-Rumen Borisov"	s. Vrabevo
7	1612049	"Alpina-Milk" EOOD	s. Zhelyazno
8	1612064	OOD "Ikay"	s. Zhitnitsa obsht. Kaloyanovo
9	2112008	MK "Rodopa milk"	s. Smilyan obsht. Smolyan
10	2412039	"Penchev" EOOD	gr. Chirpan ul. "Septemvriytsi" 58
11	2512021	"Keya-Komers-03" EOOD	s. Svetlen
12	0112014	ET "Veles-Kostadin Velev"	gr. Razlog ul. "Golak" 14
13	2312041	"Danim-D.Stoyanov" EOOD	gr. Elin Pelin m-st Mansarovo
14	0712001	"Ben Invest" OOD	s. Kostenkovtsi obsht. Gabrovo
15	1512012	ET "Ahmed Tatarla"	s. Dragash voyvoda, obsht. Nikopol
16	2212027	"Ekobalkan" OOD	gr. Sofia bul "Evropa" 138
17	2312030	ET "Favorit-D.Grigorov"	s. Aldomirovtsi
18	2312031	ET "Belite kamani"	s. Dragotintsi
19	BG 1512033	ET "Voynov-Ventsislav Hristakiev"	s. Milkovitsa obsht. Gulyantsi
20	BG 1512029	"Lavena" OOD	s. Dolni Dębnik obl. Pleven
21	BG 1612028	ET "Slavka Todorova"	s. Trud obsht. Maritsa
22	BG 1612051	ET "Radev-Radko Radev"	s. Kurtovo Konare obl. Plovdiv

No	Veterinary No	Name establishment	Town/Street or Village/Region
23	BG 1612066	"Lakti ko" OOD	s. Bogdanitza
24	BG 2112029	ET "Karamfil Kasakliev"	gr. Dospat
25	BG 0912004	"Rodopchanka" OOD	s. Byal izvor obsht. Ardino
26	0112003	ET "Vekir"	s. Godlevo
27	0112013	ET "Ivan Kondev"	gr. Razlog Stopanski dvor
28	0212037	"Megakomers" OOD	s. Lyulyakovo obsht. Ruen
29	0512003	SD "LAF-Velizarov i sie"	s. Dabravka obsht. Belogradchik
30	0612035	OOD "Nivego"	s. Chiren
31	0612041	ET "Ekoprodukt-Megiya-Bogorodka Dobrilova"	gr. Vratsa ul. "Ilinden" 3
32	0612042	ET "Mlechen puls-95 — Tsvetelina Tomova"	gr. Krivodol ul. "Vasil Levski"
33	1012008	"Kentavar" OOD	s. Konyavo obsht. Kyustendil
34	1212031	"ADL" OOD	s. Vladimirovo obsht. Boychinovtsi
35	1512006	"Mandra" OOD	s. Obnova obsht. Levski
36	1512008	ET "Petar Tonovski-Viola"	gr. Koynare ul. "Hr.Botev" 14
37	1512010	ET "Militsa Lazarova-90"	gr. Slavyanovo, ul. "Asen Zlatarev" 2
38	1612024	SD "Kostovi — EMK"	gr. Saedinenie ul. "L.Karavelov" 5
39	1612043	ET "Dimitar Bikov"	s. Karnare obsht. "Sopot"
40	1712046	ET "Stem-Tezdzhan Ali"	gr. Razgrad ul. "Knyaz Boris" 23
41	2012012	ET "Olimp-P.Gurtsov"	gr. Sliven m-t "Matsulka"
42	2112003	"Milk-inzhenering" OOD	gr.Smolyan ul. "Chervena skala" 21
43	2112027	"Keri" OOD	s. Borino, obsht. Borino
44	2312023	"Mogila" OOD	gr. Godech, ul. "Ruse" 4
45	2512018	"Biomak" EOOD	gr. Omurtag ul. "Rodopi" 2
46	2712013	"Ekselans" OOD	s. Osmar, obsht. V. Preslav

No	Veterinary No	Name establishment	Town/Street or Village/Region
47	2812018	ET "Bulmilk-Nikolay Nikolov"	s. General Inzovo, obl. Yambolska
48	2812010	ET "Mladost-2-Yanko Yanev"	gr. Yambol, ul. "Yambolen" 13
49	BG 1012020	ET "Petar Mitov-Universal"	s. Gorna Grashitsa obsht. Kyustendil
50	BG 1112016	Mandra "IPZHZ"	gr. Troyan ul. "V.Levski" 281
51	BG 1712042	ET "Madar"	s. Terter
52	BG 0912011	ET "Alada-Mohamed Banashak"	s. Byal izvor obsht. Ardino
53	1112026	"ABLAMILK" EOOD	gr. Lukovit ul. "Yordan Yovkov" 13
54	1312005	"Ravnogor" OOD	s. Ravnogor
55	1712010	"Bulagrotreyd-chastna kompaniya" EOOD	s. Yuper Industrialen kvartal
56	2012011	ET "Ivan Gardev 52"	gr. Kermen ul. "Hadzhi Dimitar" 2
57	2012024	ET "Denyo Kalchev 53"	gr. Sliven ul. "Samuilovsko shose" 17
58	2112015	OOD "Rozhen Milk"	s. Davidkovo, obsht. Banite
59	2112026	ET "Vladimir Karamitev"	s. Varbina obsht. Madan
60	2312007	ET "Agropromilk"	gr. Ihtiman ul. "P.Slaveikov" 19
61	BG 1812008	"Vesi" OOD	s. Novo selo
62	BG 2512003	"Si Vi Es" OOD	gr. Omurtag Promishlena zona
63	BG 2612034	ET "Elikvir-Petko Petev"	s. Gorski izvor
64	0812030	"FAMA" AD	gr. Dobrich bul. "Dobrudzha" 2
65	0912003	"Koveg-mlechni produkti" OOD	gr. Kardzhali Promishlena zona
66	1412015	ET "Boycho Videnov — Elbokada 2000"	s. Stefanovo obsht. Radomir
67	1712017	"Diva 02" OOD	gr. Ispirih ul. "An.Kanchev"
68	1712037	ET "Ali Isliamov"	s. Yasenovets
69	1712043	"Maxima milk" OOD	s. Samuil
70	2012010	"Saray" OOD	s. Mokren
71	2012032	"Kiveks" OOD	s.Kovachite

No	Veterinary No	Name establishment	Town/Street or Village/Region
72	2012036	"Minchevi" OOD	s. Korten
73	2212009	"Serdika-94" OOD	gr. Sofia kv. Zheleznitza
74	2312028	ET "Sisi Lyubomir Semkov"	s. Anton
75	2312033	"Balkan spetsial" OOD	s. Gorna Malina
76	2312039	EOD "Laktioni"	s. Ravno pole, obl. Sofiyska
77	2412040	"Inikom" OOD	gr. Galabovo ul. "G.S.Rakovski" 11
78	2512011	ET "Sevi 2000-Sevie Ibrya- mova"	s. Krepcha obsht. Opaka
79	2612015	ET "Detelina 39"	s. Brod
80	2812002	"Arachievi" OOD	s. Kirilovo, obl. Yambolska'
81	BG 1612021	ET "Deni-Denislav Dimitrov-Ilias Islamov"	s. Briagovo obsht. Gulyantsi
82	2012008	"Raftis" EOOD	s. Byala
83	2112023	ET "Iliyan Isakov"	s. Trigrad obsht. Devin
84	2312020	"MAH 2003" EOOD	gr. Etropole bul. "Al. Stamboliyski" 21'

2013/686/EU:

★ Commission Implementing Decision of 25 November 2013 amending Decision 2009/861/EC on transitional measures under Regulation (EC) No 853/2004 of the European Parliament and of the Council as regard the processing of non-compliant raw milk in certain milk processing establishments in Bulgaria (<i>notified under document C(2013) 8031</i>) ⁽¹⁾	50
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⁽¹⁾ Text with EEA relevance

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