

Official Journal of the European Union

L 121



English edition

Legislation

Volume 60

12 May 2017

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EN

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/803**of 8 May 2017****amending Regulation (EEC) No 316/91 concerning the classification of certain goods in the Combined Nomenclature**

THE EUROPEAN COMMISSION,

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

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

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Council Regulation (EEC) No 2658/87 ⁽²⁾, it is necessary to adopt measures concerning the classification of certain goods.
- (2) Item 2 of the Annex to Commission Regulation (EEC) No 316/91 ⁽³⁾ classified a white pasty substance known as 'creamed coconut' which is generally intended for use in the kitchen in the preparation of sauces and other foodstuff and manufactured by fine grinding of coconut pulp and pasteurized, under heading 2008 of the Combined Nomenclature as otherwise prepared nuts, not elsewhere specified or included. Classification of the product under heading 0801 of the Combined Nomenclature was excluded as pasteurisation was not permitted in Chapter 8.
- (3) The Combined Nomenclature, established by Regulation (EEC) No 2658/87, is based on the international Harmonized Commodity System ('Harmonized System'), drawn up by the Customs Cooperation Council (now the World Customs Organisation), adopted by the International Convention concluded in Brussels on 14 June 1983, and approved on behalf of the Union by Council Decision 87/369/EEC ⁽⁴⁾.
- (4) Note 3 a) to Chapter 8 was introduced in the Harmonized System in 1992. It permits a moderate heat treatment for additional preservation or stabilisation of dried nuts of that Chapter. According to the historical documents from the Harmonized System, the term 'pasteurisation' originally proposed in the text of that note was in the end replaced by the more general expression 'moderate heat treatment'. The Explanatory Notes to the Combined Nomenclature of the European Union ⁽⁵⁾ to Chapter 8 clarified at Union level that pasteurisation is, inter alia, admissible for dried fruits and nuts of that Chapter.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).⁽³⁾ Commission Regulation (EEC) No 316/91 of 7 February 1991 concerning the classification of certain goods in the Combined Nomenclature (OJ L 37, 9.2.1991, p. 25).⁽⁴⁾ Council Decision 87/369/EEC of 7 April 1987 concerning the conclusion of the International Convention on the Harmonized Commodity Description and Coding System and of the Protocol of Amendment thereto (OJ L 198, 20.7.1987, p. 1).⁽⁵⁾ OJ C 214, 30.6.2015, p. 4.

- (5) As a consequence, it is appropriate to delete item 2 from the table set out in the Annex to Regulation (EEC) No 316/91, in order to avoid potential divergences in tariff classification of desiccated coconut products such as creamed coconut which received a moderate heat treatment and to ensure the uniform application of the Combined Nomenclature within the Union.
- (6) Regulation (EEC) No 316/91 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The row corresponding to item 2 in the table set out in the Annex to Regulation (EEC) No 316/91 is deleted.

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, 8 May 2017.

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

COMMISSION IMPLEMENTING REGULATION (EU) 2017/804**of 11 May 2017****imposing a definitive anti-dumping duty on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'), and in particular Article 9(4) thereof,

After consulting the Member States,

Whereas:

A. PROCEDURE**1. Provisional measures**

- (1) The European Commission ('the Commission') initiated on 13 February 2016 an investigation following a complaint lodged on 4 January 2016 by the Defence Committee of the seamless steel tubes industry of the European Union ('the complainant') on behalf of producers representing more than 25 % of the total Union production of the like product. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of an investigation.
- (2) It imposed on 12 November 2016 a provisional anti-dumping duty on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China ('PRC', 'China' or 'the country concerned') by Commission Regulation (EU) 2016/1977 ⁽²⁾ ('the provisional Regulation').

2. Subsequent procedure

- (3) Subsequent to the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed ('the provisional disclosure'), Union producers, Chinese exporting producers, and an association of Chinese exporting producers made written submissions. The parties who so requested were granted an opportunity to be heard.
- (4) The Commission considered the comments submitted by the interested parties and, where appropriate, modified the provisional findings accordingly.
- (5) The Commission informed all parties of the essential facts and considerations on the basis of which it intends to impose a definitive anti-dumping duty on imports of certain seamless pipes and tubes ('the definitive disclosure'). All parties were granted a period within which they could make comments on the definitive disclosure. The comments submitted by the interested parties were considered and taken into account where appropriate.

3. Sampling

- (6) In recitals (7) to (9) of the provisional Regulation, the Commission invited comments concerning the representativity of one of the sampled Union producers.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Regulation (EU) 2016/1977 of 11 November 2016 imposing a provisional anti-dumping duty on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross-section, of an external diameter exceeding 406,4 mm, originating in the People's Republic of China (OJ L 305, 12.11.2016, p. 1).

- (7) One Chinese exporting producer argued that the one Union producer should be removed from the sample as its data would distort the findings for the whole industry. A second Chinese exporting producer underlined that Vallourec was the largest company in the sample, thus it was unclear whether the sample was representative of the Union industry. The complainant argued that the Chinese producers are increasingly competing also in tailor-made and high-end products. It also pointed out that the oil and gas products are mainly exported outside the Union, so this difference in product ranges has only a small role in the Union market.
- (8) The Commission requested additional data and carried out a further verification visit at the premises of the Union producer. The findings showed that the Union producer produces a wider range of product types than the other sampled Union producers, but this wide product range, including pipes for power generation, oil and gas and construction, was within the product scope. Both the Union producers and the Chinese producers are involved in both the commodity products and the high-end products. The specific Union producer represents a large part of the Union production. The Commission therefore concluded that the Union producer is part of the Union industry, and that there are no grounds to exclude it from the sample. Any unwarranted impact of this company's specific situation in the injury picture was addressed by means of cost adjustments and weighting, as explained in recitals (81), (84) and (146).
- (9) The association of Chinese exporting producers reiterated its earlier comments against the initiation of the investigation, among which its opposition to the method of establishing a preliminary sample before initiation. It also alleged that the complaint was unsubstantiated, of poor quality and based on assumptions, the product scope was too broad and groups together too different products, and there were too many confidential elements.
- (10) The Commission recalled that the preliminary selection of sampled companies was open for comments by the interested parties. The comments of the Chinese association were received only after the deadline, by which stage the sample had already been confirmed. It was therefore rejected. As regards the other claims, the Commission pointed out that at the stage of the complaint, it was not necessary to already have the same evidence of dumping and injury that would be necessary for the imposition of measures. The claims concerning confidential annexes of the complaint were examined and the justification for the confidentiality was confirmed. In any case, the Chinese association received a detailed reply to its claims against the initiation.
- (11) In the absence of other comments concerning the method of sampling, the provisional findings set out in recitals (10) to (13) of the provisional Regulation were confirmed.

4. Individual examination

- (12) As mentioned in recital (14) of the provisional Regulation, three exporting producers which were not included in the sample requested that an individual margin of dumping be established pursuant to Article 17(3) of the basic Regulation. However, following the publication of the provisional measures, two of them decided to withdraw their request for an individual examination. The sole exporting producer that confirmed its initial request for an individual examination was Zhejiang Gross Seamless Steel Tube Co., Ltd

5. Market economy treatment claim forms

- (13) No claim forms for market economy treatment were submitted by any of the exporting producers during the investigation. The findings of recital (15) of the provisional Regulation were therefore confirmed.

6. Questionnaire replies and verification visits

- (14) In addition to the questionnaires and visits described in recitals (16) and (17) of the provisional Regulation, the Commission sent additional questions to the complainant and to one Union producer in order to carry out the verifications concerning injury and causality identified in the provisional Regulation. Furthermore, one Chinese exporting producer received a questionnaire for individual examination.

(15) Verification visits were carried out at the premises of the following parties:

(a) exporting producers in the PRC

— Zhejiang Gross Seamless Steel Tube Co., Ltd (individual examination);

(b) Union producers

— Vallourec Deutschland GmbH, Germany;

(c) unrelated importers

— Edgen Murray GmbH, Austria/United Kingdom,

— Meever & Meever BV, Netherlands,

— Cuñado S.A., Spain.

7. Investigation period and period considered

(16) The association of Chinese exporting producers criticised the starting point of the period considered (2012), arguing that the year 2011 would have been a more appropriate starting point. It argued that the imports from China to the EU of the product concerned decreased from 2011 (46 657 tonnes) to 2012 (39 195 tonnes). As a result, 2012 as a base year shows increase of imports over the period considered (to 42 539 tonnes), whereas 2011 as the base year would show a decrease of imports from China. It requested further explanation on the choice of 2012.

(17) The Commission noted that the period considered has been established in line with the standard practice. As explained in recital (18) of the provisional Regulation, the period considered covers three full calendar years preceding the investigation period. There is no basis to select a different period. The comment was therefore rejected. In any event, the data collected from the interested parties only covered the period considered. The determination of the injury indicators was therefore only possible for the period 2012 to 2015. Hence the data on the import volumes from China since 2011 did not allow the Commission to draw conclusions on the overall development of the situation of the Union industry. Considering the trend of decreasing profitability since 2012, as described in recitals (91) and (92), the inclusion of the year 2011 in the period considered would have shown an even steeper negative development in the situation of the Union industry.

(18) Following definitive disclosure, one Chinese exporting producer and the association of Chinese exporting producers claimed that in recital (59) (corresponding to recital (47) of the General Disclosure Document) the Commission's explanation for the differences in export volumes was not based on any evidence.

(19) The Commission clarified that the recital (59) did not concern the claim of the inclusion of the year 2011 the investigation period, but instead referred to a different comment from another interested party, who had claimed an inconsistency in comparison with an earlier investigation of the same product. The claims of the Chinese association of exporting producers concerning the investigation period were addressed in recital (17).

(20) In the absence of other comments concerning the investigation period, the recital (18) of the provisional Regulation was confirmed.

B. PRODUCT CONCERNED AND LIKE PRODUCT

(21) One Chinese exporting producer argued that the product scope was overly wide as it includes product types of alloy steel of which the respective costs and prices deviate significantly from the standard product concerned. It requested the exclusion of the product types made of alloy and high alloy steel ⁽¹⁾ from the product scope.

⁽¹⁾ Content in chromium higher or equal to 0,5 % and lower than 7 %; chromium content higher or equal than 7 % and lower than 10,5 %. These product types were identified in the PCN table as categories 4 and 5 under the first digit of the PCN.

- (22) The association of Chinese exporting producers affirmed that the product scope brings together three different market segments: (a) oil/gas; (b) power plants; and (c) construction, and that injury should have been assessed separately for each of the segments. It stated that the product destined for one market segment is required to comply with specific industrial standards and therefore cannot be used in another segment. As a proof of the latter, it referred to the practice in Canada and United States, where anti-dumping investigations had separated the pipes and tubes produced for the oil/gas sector from pipes and tubes produced for other sectors.
- (23) With respect to the latter claim, one interested party claimed that their exports to the Union were related only to the construction sector.
- (24) As regards the first claim concerning alloy and high-alloy steel, the Commission noted that the definition of the product concerned covers a wide variety of product types which share the same or similar basic technical and physical characteristics. The Commission took account of the differences among the product types and ensured a fair comparison. A unique product control number (PCN) was allocated to each product type, produced and sold by the Chinese exporting producers and to each one produced and sold by the Union industry. The PCN depended on the main characteristics of the product, in this case, product type, external diameter, wall thickness, quenching & tempering, length, tube extremity, and testing. Therefore, the product types imported from China were compared on a PCN basis with the products produced and sold by the Union industry that have the same or similar characteristics. In particular, the first characteristic (product type) separated non-alloy, alloy, and high-alloy steels. Therefore the differences in costs and prices arising from alloy and high-alloy steel were taken into account in the comparisons. According to case-law ⁽¹⁾, when determining whether products are alike so that they form part of the same product, it needs to be assessed whether they share the same technical and physical characteristics, and have the same basic end-uses and the same price-quality ratio. In that regard, the interchangeability of, and competition between, those products should also be assessed. The investigation found that all the product types are made from steel, using manufacturing processes required to produce seamless pipes, thus using similar machines, such that producers can switch between different variants of the product, according to demand. Therefore, although all the different product types are not directly interchangeable, producers are competing for orders covering a broad range of product types. Moreover, these product types are produced and sold by both the Union industry and the Chinese exporting producers using a similar production method.
- (25) As regards the second claim concerning market segments, the claim does not substantiate on which basis product types of one or the other market segment should be excluded from the product scope. Nor is it explained why a separate injury assessment should be carried out by segment. The definition of the product concerned, covering seamless pipes and tubes with an external diameter exceeding 406,4 mm, was not contested neither after the Notice of initiation, nor in the questionnaire replies and the verification visits. As explained in recital (24), the PCN is based on basic physical and technical characteristics, not on the potential final use or market segment. In any case, the investigation has shown that both the Chinese exporting producers and the Union producers compete in all of the three segments. Moreover, the duty rates for each individual Chinese exporting producer are calculated on the basis of a weighted average by product type. As a result, the total duties to be paid would remain identical for a given product mix. While some product types would obtain lower margins and others higher margins, the sum of all the margins would be equal to the weighted average of all product types.
- (26) Following definitive disclosure, one Chinese exporting producer and the association of Chinese exporting producers further contested the product scope. They argued that due to different requirements in terms of standards, alloy content, and end uses, the products for the oil and gas segment were different from and not interchangeable with the products for the two other segments. The PCN was allegedly unable to allow for proper comparisons between product types, since the product scope itself was not properly defined. As regards the producers shifting their focus between segments, they claimed that the difficulties in the two other segments were therefore the result of the market forces and not related to imports from China. Moreover, they alleged that the Union producers' shifting of focus to other segments was a commercial strategy that necessarily implied reduced revenues, due to the lower sales prices in the other segments when compared with oil and gas products.
- (27) The Commission referred to recital (24) where it concluded that while some of the different product types were not directly interchangeable, notably due to the different requirements in terms of standards and raw materials,

⁽¹⁾ Case C-595/11; OJ C 164, 8.6.2013, p. 6.

they nevertheless shared the same or similar basic technical and physical characteristics. As regards the shifting of the focus to other segments, the comments from the interested parties did not dispute the ability of the producers to shift their focus from one segment to the other. The comments thus confirmed the findings in recital (24) that the products for different segments were produced by the same producers, with similar machines, and that the producers can switch between different variants. Therefore the Commission concluded that the product scope was correct, and hence comparisons between product types were possible on the basis of the PCN. It therefore concluded that these claims did not contradict the findings of the investigation.

- (28) The Commission therefore concluded that all types of the product concerned share the same basic physical and technical characteristics. As a consequence the above claims were rejected and the findings of the recitals (19) to (22) of the provisional Regulation were confirmed.

C. DUMPING

1. Analogue country

- (29) As mentioned in recitals (24) to (28) of the provisional Regulation, Mexico was chosen as the appropriate analogue country for the purpose of establishing the normal values for the PRC in accordance with Article 2(7) of the basic Regulation.
- (30) Following the imposition of provisional measures, one interested party claimed that South Korea should be considered a better analogue country since the cost of production and production process of Korean mills is much closer to the one of the Chinese mills. It was also claimed that there are significant differences in terms of costs and technology used in the production process between some of the Chinese exporting producers and the analogue country producer or Union producers. The production process of the Chinese is allegedly more advanced and certain adjustments should be made in order to guarantee a fair comparison.
- (31) It should be noted that the product concerned constitutes a niche market and thus a relatively small number of producers are capable of producing it. Furthermore, the cooperation with the analogue country producers is voluntary. Although CISA suggested that South Korea would be a more appropriate choice for analogue country, it did not propose a specific Korean producer willing to cooperate. It is recalled here, that at the provisional stage the Commission requested cooperation from 13 companies in 8 countries. Even though a company in South Korea was among these companies, the specific company never replied to the request. Based on searching the internet and consultation of the companies' websites of 41 producers of steel products in South Korea, it was found that only three of them produced seamless pipes and tubes. Two of the latter produced small diameter pipes and tubes which is not the product concerned and the sole producer in South Korea that produced the product concerned, made use of a production technology that is not comparable to the production technologies that were mainly used by the Chinese producers. The evidence found during the investigation indicates that South Korea was predominantly producing low diameter seamless pipes and tubes, which is not the product under investigation, or makes use of a production technology which is not comparable with that of the Chinese producers of the product concerned. Therefore, the Commission concluded that South Korea could not be considered as an adequate analogue country.
- (32) In addition, although a variety of production processes exists among the Chinese producers, the production process of the Mexican producer is one of the processes used by the Chinese producers. The similarities of the production processes between Mexico and China supported further the conclusion that Mexico was an appropriate analogue country for this investigation.
- (33) The interested party did not submit sufficient evidence in order to explain and quantify in terms of costs the differences between its allegedly advanced production technology and the technology that is used in Mexico. It did not submit any cost information of a specific Chinese producer, nor for the sector of activity in China, nor referring to any other producer using similar production processes, that would have allowed the Commission to assess the alleged differences between the technology used in China and the cooperating Mexican producer, and the impact, if any, in the appropriateness of Mexico as the analogue country. Moreover, no cooperation was received from South Korea. Thus the claim was rejected. Consequently, the Commission confirmed Mexico as the only available appropriate analogue country.
- (34) Following definitive disclosure, one Chinese exporting producer claimed that the Commission uncritically accepted Mexico as analogue country just for the reason that such choice served its needs of finding high dumping margins.

- (35) The specific claim was a mere statement and the interested party did not substantiate its assertion nor provided any evidence that Mexico was not an appropriate analogue country. In any event, the Commission recalls that where it only receives cooperation from one exporting producer in a market economy country, the Commission is obliged, based on the *GLS* judgment of the Court (C-338/10), to use that country. Thus the claim was rejected.

2. Normal value

- (36) The details for the calculation of the normal value are set out in recitals (29) to (37) of the provisional Regulation.
- (37) One Chinese exporting producer claimed that most of the data for the establishment of the dumping margin have been kept unreasonably confidential. The party especially commented upon the fact that the normal value of the cooperating producer was not disclosed.
- (38) According to Articles 19(1) of the basic Regulation, information confidential by nature is information, the disclosure of which may cause: (1) significant advantage to a competitor; or (2) adverse effect upon a person supplying the information or upon a person from whom the information has been acquired. Since data with respect to sales and costs are confidential by nature, in the provisional Regulation data regarding profit, selling, general and administrative costs of the analogue country producer have been provided on a percentage basis in ranges, providing in that way transparency to the most possible extent without violating their confidential nature. The analogue country producer requested and justified confidentiality treatment of its sales and costs data, disclosure of which could harm company's competitive position. In addition, the disclosure of the normal value could provide the possibility a competitor to construct back the prices and costs of the analogue country producer. Thus the claim was rejected.
- (39) In the absence of any other comments concerning the normal value, recitals from (29) to (37) of the provisional Regulation were confirmed.
- (40) Following definitive disclosure, one Chinese exporting producer, Zhejiang Gross Seamless Steel Tube Co., Ltd ('Gross') claimed that the Commission used one constructed normal value only, for the 27 product types that Gross exported during the investigation period, without distinguishing the different steel types and the costs for quenching and tempering in its production process. The specific claim was based on the reading and interpretation of individual parts of the general disclosure document by isolating their meaning from the meaning of the whole document.
- (41) The Commission recalled here that the details of the dumping calculation were set out in recitals (44) to (47) of the provisional Regulation and mentioned in recital (41) of the general disclosure document. Recital (44) of the provisional Regulation mentioned precisely that the Commission conducted the comparison of the normal value and export price, for each product type in isolation and never used one normal value for all product types. The product types that were used for the comparison were defined in the questionnaires that were sent to the analogue country producer, Chinese exporting producers and Union producers. Steel grade, quenching and tempering and other characteristics were specified and taken into account for the calculation of the cost of production and the construction of the normal value for each product type separately, by adjusting for each characteristic properly. Since the claim was based on a misinterpretation of the general disclosure document, it was rejected.
- (42) Gross also claimed that the Commission should eliminate from its export sales those product types that TAMSA, the Mexican analogue country producer, does not produce.
- (43) The Commission's practice following the WTO rulings on the case 'European Communities — Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China' ⁽¹⁾ is that a normal value should be found or constructed for all types exported by the exporting producer. The Commission therefore rejected the claim.

3. Export price

- (44) In the absence of any comments concerning the export price, recitals (38) and (39) of the provisional Regulation were confirmed.

⁽¹⁾ WTO, report of the Appellate Body, AB-2015-7, WT/DS397/AB/RW, 18 January 2016.

4. Comparison

- (45) The details of the method used for the comparison between the normal value and the export price of the sampled exporting producers are set out in recitals (40) to (43) of the provisional Regulation.
- (46) It is recalled here that China applies a policy of reimbursing VAT upon export only partially. To ensure that the normal value was expressed at the same level of taxation as the export price, the normal value in the provisional Regulation was determined with the inclusion of the VAT charged on exports of large diameter seamless pipes and tubes that was not refunded to the Chinese exporting producers. The specific non-refundable VAT was at the level of 8 % for all product types.
- (47) In this regard, the complainants commented that the refundable VAT in China was not the same for all product types. Specifically, for pipes and tubes used in the oil and gas exploration business, the refundable VAT was 13 % and for the other product types it was 9 %. The complainant claimed that the dumping margins should be recalculated accordingly and requested a confirmation that the specific VAT was effectively paid before being reimbursed.
- (48) Since the VAT in China was the same for all products types at the level of 17 %, the non-refundable VAT for pipes and tubes used in the oil and gas exploration business was therefore 4 % and for the other product types was 8 %.
- (49) Thus, the Commission revised the adjustments for the companies which reported the actual refunded VAT on a transaction by transaction basis in their questionnaire replies. The specific exporting producers were Yangzhou Lontrin Steel Tube Co., Ltd and Hengyang Valin MPM Co., Ltd. The dumping margins for these companies were recalculated accordingly. The recalculation taking into account the specific non-refundable VAT rates led to slightly lower dumping margins. The dumping margins of the other sampled companies remained at the provisional level.
- (50) During the verification visits it was confirmed that the VAT was effectively paid before being reimbursed.

5. Dumping margins

- (51) The details of the dumping calculation were set out in recitals (44) to (47) of the provisional Regulation.
- (52) Concerning the sampled exporting producers, the more precise VAT adjustments on the normal values led to the definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, as follows:

Company	Definitive dumping margin (%)
Yangzhou Chengde Steel Pipe Co., Ltd	45,4
Hubei Xinyegang Special Tube Co., Ltd	103,8
Yangzhou Lontrin Steel Tube Co., Ltd	39,9
Hengyang Valin MPM Co., Ltd	92,9
Other cooperating producers	73,6
All other producers	103,8

For the sole exporting producer which requested individual examination, Zhejiang Gross Seamless Steel Tube Co., Ltd, the definitive dumping margin in the general disclosure documents was set at the level of 66,0 %.

- (53) Following definitive disclosure, one Chinese exporting producer (Zhejiang Gross Seamless Steel Tube Co., Ltd ('Gross')) claimed that its dumping margin (66,0 %) cannot be higher than the dumping margins of Yangzhou Chengde Steel Pipe Co., Ltd, ('Chengde') and Yangzhou Lontrin Steel Tube Co., Ltd ('Lontrin') which were 45,4 % and 39,9 % respectively. The claim was based on the conjunction of two considerations: (i) the assumption that the normal value that was used for the calculation of the dumping margins was the same for the three Chinese exporters; and (ii) the fact that, according to the Chinese trade statistics at the level of the customs codes, the average unit export price of Gross was higher than the respective prices of Chengde and Lontrin.

- (54) With respect to the assumption made by Gross, the Commission recalled here that the calculation of the dumping margin was not based on an average normal value for each exporting producer, but on the normal value of each product type that was exported to the Union market by this exporting producer. Thus, the product mix that was exported was the determinant for the calculation of the weighted average dumping margin. Since the three exporting producers did not export the same product mix during the investigation period, the specific assumption made by Gross is incorrect. Furthermore, the unit export prices that were used for the calculation of the dumping margin were based on the actual export transactions and not on statistical data. At the same time, the unit export prices were determined at the level of the product types which did not correspond with the level of the customs codes that Gross used in its claim. Since the claim was based on incorrect assumptions and insufficient facts, it was rejected. However, the correction of some clerical mistakes that were revealed during the re-examination of the dumping margin calculations, led to a decrease of the definitive dumping margin from 66,0 % to 52,3 %.

D. UNION INDUSTRY

- (55) In the absence of comments concerning Union industry, the recitals (49) to (51) of the provisional Regulation were confirmed.
- (56) The comments to the recital (52) of the provisional Regulation concerning the sampling of the Union industry have been addressed above in conjunction with the comments to recitals (7) to (9) of the provisional Regulation.

E. INJURY

1. Union consumption

- (57) In the absence of comments concerning Union consumption, the conclusions set out in the recital (53) of the provisional Regulation were confirmed.

2. Imports into the Union from the country concerned

Volume and market share if the imports concerned

- (58) Following provisional disclosure, one Chinese exporting producer contested the 2012 import volume in recital (54) of the provisional Regulation, claiming that the volume was different from the data used in a previously terminated investigation that had concerned the same product.
- (59) The Commission clarified that the complaint in that previous investigation was lodged in December 2012. Therefore, it did not contain the import volumes of the full year 2012, but instead was based on the second half of 2011 and the first half of 2012. The data used in recital (54) of the provisional Regulation reflected the Eurostat data for the entire years 2012 to 2015. The claim was therefore rejected.
- (60) Following definitive disclosure, one Chinese exporting producer and the association of Chinese exporting producers claimed that in recital (59) the Commission's explanation did not address their claim that 2011 would have been a more appropriate starting year of the investigation period.
- (61) The Commission clarified that recital (59) referred to a different claim from a different interested party. The claim concerning the investigation period was addressed in recital (17).
- (62) In the absence of other comments concerning the import volumes, the recitals (54) and (55) of the provisional Regulation were confirmed.

Prices of imports and price undercutting

- (63) Following definitive disclosure, a clerical error concerning the import statistics was detected in recitals (56) to (58) and recital (105) of the provisional Regulation.

- (64) As a result, the findings in recital (56) of the provisional Regulation were revised as follows:

The table below shows the average price of imports from China:

	2012	2013	2014	IP (2015)
Average price in EUR/tonne	1 096	1 079	1 037	1 099
<i>Index (2012 = 100)</i>	100	98	95	100

Source: European Commission (Eurostat)

- (65) The findings in Recital (57) of the provisional Regulation were revised as follows:

The average import prices were established on the basis of the Eurostat import statistics. The average import prices from China remained fairly stable during the period considered. The import prices were slightly lower in the year 2014 than in the previous years, but in 2015 the prices increased back to their initial levels.

- (66) The findings in Recital (58) of the provisional Regulation were also revised as follows:

However, the average import prices depend on the product mix, in particular of the steel grade, which is not visible in the trade statistics. While the average export sales price of all the Chinese exporting producers was 1 099 EUR/tonne in the IP, the average export sales price of the sampled Chinese exporting producers was 1 102 EUR/tonne, ranging from 946 EUR/tonne to 1 444 EUR/tonne.

- (67) In the absence of other comments concerning the import prices, the recitals (56) to (59) of the provisional Regulation were confirmed as revised in recitals (64) to (66).

- (68) Following provisional disclosure, one Chinese exporting producer and the association of Chinese exporting producers requested more justification for the elimination of two characteristics from the product control numbers (PCN) for the purposes of establishing undercutting and injury margins. They alleged that the removal of these two characteristics may have resulted in unreasonably high injury margins. They also requested clarifications on why the PCNs 214NN and 215NN exported from China did not match with the Union sales of the Union producers.

- (69) In line with the information given to the exporting producers at the provisional disclosure, the Commission clarified that no sufficient matching could be found using the full PCN composed by the seven characteristics. The PCN was simplified with the elimination of product characteristics 'quenching and tempering' and 'testing'. As a result of the simplification, at the provisional stage 62 % to 99 % of the exports of the sampled Chinese exporting producers matched with the product types sold in the Union by the Union industry. Contrary to what was alleged, the higher matching rate ensured that the injury findings were made on a representative basis rather than on few transactions. Following the claims of the Chinese exporting producers, the Commission adjusted the method of comparison. The import prices of the remaining product types that were not sold by the Union industry were compared with a constructed Union sales price, which was based on the average Union sales price of the closest group of product types, i.e. those with the same first PCN characteristic. As a result, 100 % of the exports of the sampled Chinese exporting producers were matched with Union sales. The undercutting margins ranged from 15,2 % to 29,1 %.

- (70) As regards the specific PCNs, the Commission clarified that the reason for non-matching of these export sales at the provisional stage was the absence of Union sales of this product type with wall thickness above 30 mm. At the definitive stage, also these product types were included in the price comparison following the adjusted method explained above.

- (71) Following definitive disclosure, one Chinese exporting producer requested further clarification on its individual injury margin in comparison with the other Chinese exporting producers, on the basis of a price comparison of the customs statistics. Secondly, the exporting producer contested the simplification of the PCN code by the elimination of the two characteristics, claiming that the simplification was not warranted and may have led to comparison at different levels. It requested instead the Commission to make an adjustment for physical characteristics for quenching and tempering for some of its product types by eliminating the average cost of quenching and tempering from the underselling price. Thirdly, the same producer pointed out that the Union sales prices

did not follow logical patterns in terms of length and wall thickness. Fourthly, it also requested a clarification about the source of the constructed Union sales price that was established for the product types for which no Union sales had been found.

- (72) As regards the first claim, the Commission explained that the price comparisons are made on the basis of each product type. For this reason the result does not necessarily follow the average price patterns at the level of the customs codes, since the product mixes within a same customs code are not identical for two different exporting producers. As regards the second claim, the Commission accepted the request for an adjustment. Accordingly, the injury margin for this exporting producer was recalculated as regards the product types concerned by the request. Quenching and tempering were found to concern less than 5 % of the Union sales volumes of the concerned products. The cost of quenching and tempering treatment was found to be between 30-60 EUR/tonne based on available data. The impact of the adjustment on the injury margin of the Chinese exporting producer was less than 0,2 %. As regards the third claim concerning price patterns, the Commission clarified that the average Union sales prices were established on the basis of verified transactions of the sampled Union producers. The prices depended on the specific market conditions at the time of each transaction. Fourthly, as regards the source of the constructed sales price, the Commission clarified, in line with the information provided in the disclosure documents, that the unit sales price was constructed as the average of the Union sales price of the product types having the same first PCN characteristic.
- (73) Following definitive disclosure, a second Chinese exporting producer contested the constructed Union sales price. It claimed that instead of constructing the Union sales prices on the basis of the average Union sales price of all products in the same category, as explained in recital (69), the Union sale price should have been established as the average of the Union sales price of only those product types that had been exported by the individual Chinese exporting producer.
- (74) The Commission pointed out that such a method would have led to different Union sales prices for the same PCN, depending on the product mix of each individual exporting producer. Such a method would therefore not guarantee equal treatment of all Chinese exporting producers. Findings based on a fewer product types would also be less representative than the findings based on all product types sold in the Union. Therefore, the claim was rejected.
- (75) The Chinese exporting producer contested the use of Union sales prices for the calculation of undercutting in recital (60) and for the calculation of injury elimination level in recitals (138) to (140) of the provisional Regulation. It claimed the method is incorrect because the average result of the Union industry is probably not identical with the specific profit of each PCN. It claimed that the comparison should instead have been made on the basis of the costs.
- (76) The Commission pointed out that using the costs of the Union industry instead of the prices, as claimed by the Chinese exporting producer, would have led to a less accurate comparison. This is because a comparison based on costs could not have been adjusted for the level of trade, since the level of trade can only be taken into account by disregarding specific sales transactions, namely the direct sales to end users. A cost-based calculation, by contrast, would have been based on the costs of production, thus grouping together all the products. The imports from China are made through traders. The direct sales to end-users typically involve additional tailor-made requirements, as explained in recital (61) of the provisional Regulation. A cost-based calculation would therefore have resulted in comparing different types of transactions and products with each other. Hence, contrary to what is alleged, taking into account the level of trade led to lower injury margins, since the high-cost sales made directly to end users were not included in the calculation.
- (77) The complainant contested the exclusion of the direct sales to end users in recital (61) of the provisional Regulation. It claimed that even though the sales of the Chinese products are indeed made through distributors, those sales include also tailor made and high value products. According to the complainant, there is therefore no reason to exclude the direct sales to end users from the comparison.
- (78) The Commission noted that both the Union industry and the Chinese exporters mostly sell through traders. Therefore, it considered that comparison of prices at the same level of trade, described in recitals (60) and (61) of the provisional Regulation, is the most accurate available method to compare the import prices from China with the most similar transactions in the Union sales.

- (79) As a consequence, the conclusions set out in recitals (60) to (62) of the provisional Regulation were confirmed.

3. Economic situation of the Union industry

- (80) The recitals (8) and (107) of the provisional Regulation highlighted the high costs of one of the sampled Union producers. This was further investigated after the imposition of the provisional measures.
- (81) Firstly, the effect of extraordinary write-offs of one Union producer was disregarded from the profitability of the Union sales. The extraordinary write-offs in the annual accounts were related to the loss of value of certain assets, following the drop in the sales to oil and gas segment outside the Union. They amounted to a total of around 1 400 million EUR for the group in the period 2014-2015. A share of the write-offs had affected the value of the production assets for the product concerned in Europe and had been recorded as a cost of production. This share of the write-off therefore made the Union sales appear more loss-making than they would have been under an ordinary cost structure of the Union sales. Hence this depreciation was not included in the costs of the Union sales. As a result, the average cost of the Union sales was reduced by 60-80 EUR/tonne in 2014 and 2015.
- (82) Following definitive disclosure, one Chinese exporting producer requested a clarification on whether the Commission had investigated the depreciation of all four sampled Union producers and how the depreciation had been allocated to the product concerned.
- (83) The Commission clarified that the regular depreciation of all four sampled Union producers was taken into account. In those cases where the assets were used to produce also other products than the product concerned, only a part of the total depreciation, corresponding to the share of volume of the product concerned, was taken into account as a cost of the product concerned. The adjustment explained in recital (81) did not change the impact of the regular depreciations. It only concerned the extraordinary write-offs of one Union producer in 2014 and 2015.
- (84) Secondly, the fixed costs relating to the unused reserve capacity of this sampled Union producer were disregarded from the profitability of the Union sales. From 2012 to 2015, it lost a significant part (20 %-40 %) of sales (mainly dedicated to exports). The capacity was not reduced to reflect these losses, but instead remained in place, ready to be used when the demand resumed. Hence the costs of this reserve capacity were not included in the costs of the Union sales.
- (85) The Commission assessed whether it would be warranted to make the same adjustment also to the other sampled Union producers. It found that the other Union producers had also lost export sales albeit to a smaller extent, while maintaining their capacity stable. For the sake of coherence, the Commission made the same adjustment to the costs of all sampled Union producers, which however only had a small impact (not exceeding 0,5 percentage points of the injury margin).
- (86) As a result, the average cost of the Union sales was reduced by 30-100 EUR/tonne in 2014 and 2015.
- (87) Following definitive disclosure, one Chinese exporting producer requested more information on the adjustment of the costs, their breakdown, and the impact of the adjustment. Secondly, it claimed that the published financial reports of one sampled Union producer showed financial results that were different from the costs and profitability reported in the definitive disclosure.
- (88) As regards the disclosure of the cost adjustment, the Commission pointed out that the total impact of the adjustment for the costs of 2014 and 2015 was disclosed in recital (86). The Commission clarified that the cost adjustment took into account all fixed costs, including overheads, indirect labour, depreciation, and selling, general and administrative expenses. Due to commercially sensitive nature of the cost data of individual Union producers, the Commission could not reveal a detailed breakdown of the costs. The Commission instead disclosed a range of the impact. As regards the second claim, the Commission pointed out that the published financial reports referred to the results of the entire group and of all products. By contrast, the findings of the investigation concerned specifically the Union sales of the product concerned. The cost and profitability data from the two sources were therefore different, because they did not refer to the same scope of activity.
- (89) The adjustments reduce the share of overheads allocated to the Union sales, and therefore reduce the losses of the Union sales in 2014 and 2015.

- (90) As a result of the cost adjustments, the Commission revised the findings laid down in recital (79) of the provisional Regulation as follows:

In the same period, the costs of the Union industry remained fairly stable, when the effects of extraordinary costs and reserve capacity were removed. The stable costs combined with the decreasing sales prices resulted in the industry becoming loss-making from 2013 onwards.

	2012	2013	2014	IP (2015)
Average unit selling price in the Union to unrelated customers	1 839	1 679	1 773	1 584
<i>Index (2012 = 100)</i>	100	91	96	86
Unit cost of goods sold (EUR/tonne)	1 733	1 713	1 942	1 873
<i>Index (2012 = 100)</i>	100	99	112	108
Unit cost of goods sold (EUR/tonne) after cost adjustments	1 733	1 713	1 830	1 704
<i>Index (2012 = 100)</i>	100	99	106	98

Source: Questionnaire replies

- (91) Furthermore, the Commission revised the findings laid down in recital (80) of the provisional Regulation as follows:

During the period considered the Union producers' cash flow, investment, return on investment and their ability to raise capital developed as follows:

	2012	2013	2014	IP (2015)
Profitability of sales in the Union to unrelated customers (% of sales turnover)	+ 5,7	– 2,0	– 9,5	– 18,3
Profitability of sales in the Union to unrelated customers (% of sales turnover) after cost adjustments	+ 5,7	– 2,0	– 3,2	– 7,6
Cash flow (EUR)	9 480 887	8 224 523	14 894	3 814 661
Investments (EUR)	2 522 406	5 241 449	2 642 167	2 465 992
<i>Index (2012 = 100)</i>	100	208	105	98
Return on investment (%)	16,6	– 6,2	– 27,7	– 53,6

Source: Questionnaire replies

- (92) Finally, the Commission revised the findings laid down in recital (88) of the provisional Regulation as follows:

As shown above, during the period considered the production of the Union industry, and consequently the employment, has decreased. The Union industry has lost sales volumes and market share, while the imports from China have undercut the Union prices, thereby putting a pressure on the prices. As a result, the sales prices have decreased. Most importantly, the industry has become loss-making: profitability has deteriorated during the period considered, reaching the worst result in the IP.

- (93) Following provisional disclosure, the complainant requested further clarification on the determination of the injury indicators in situations where the same production line can also be used to produce smaller diameter pipes, as mentioned in recitals (68) to (70) of the provisional Regulation.
- (94) The Commission clarified that the capacity utilisation has been established on the basis of the utilisation of the total capacity by all products on the same production lines. For all the other injury indicators, only the product concerned has been taken into account.
- (95) The complainant commented that the impact of the dumping assessed in recital (76) of the provisional Regulation should be considered significant. It also requested a clarification on the conclusion that no dumping had been found previously in recital (77) of the provisional Regulation.
- (96) The Commission clarified that in view of the high dumping margins and the significant volume and market share and significantly lower prices of the imports from China, the magnitude of the dumping margin is such as to constitute a factor of injury having an impact on the Union industry under Article 3(5) of the basic Regulation. The Commission further clarified that the recital (77) of the provisional Regulation refers to the fact that the Commission has not previously made a finding of dumping for the product concerned during the period considered. While a previous investigation was initiated in 2013, it was subsequently terminated without concluding that dumping had taken place in the investigation period or before.
- (97) Following provisional disclosure, one Chinese exporting producer questioned the findings in recital (79) of the provisional Regulation, in particular why the average cost of goods sold had increased by 8 % during the period considered, and in case this increase was due to only one Union producer, whether this reflected the injury of the entire Union industry.
- (98) The Commission noted that following the cost adjustments explained in recitals (81) and (84), the average cost of goods sold has remained broadly stable during the period considered. At the same time, the average prices of the Union sales have decreased by 14 %, as shown in recitals (78) and (79) of the provisional Regulation. This has led to losses of the Union industry from 2013 onwards. It must therefore be concluded that the Union industry as a whole has suffered injury as a result of the declining sales prices.
- (99) The association of Chinese exporting producers requested further clarification on the labour costs in recital (87) of the provisional Regulation, and on the impact of the overhead costs on the performance of the Union industry.
- (100) The Commission clarified that the total number of employees has decreased by 13 % during the period considered, as shown in recital (75) of the provisional Regulation, and the average labour cost per employee has decreased by 8 %, as shown in recital (87) of the provisional Regulation. This decrease in average labour cost per employee is partly due to salary cuts, and partly due to a decrease in the number of hours worked. The fewer hours worked per employee is also reflected in the average output by each employee, which has decreased by 13 %, as shown in recital (75) of the provisional Regulation. As a result, the overall impact of labour costs per tonne has remained broadly stable during the period considered, so it cannot be considered to have been a major factor of injury.
- (101) In the absence of other comments concerning the economic situation of the Union industry, and after the changes to recitals (79), (80) and (88), the other conclusions set out in recitals (63) to (89) of the provisional Regulation were confirmed.

E. CAUSATION

1. Effect of the dumped imports

- (102) Following provisional disclosure, the association of Chinese exporting producers commented that according to recital (56) of the provisional Regulation, the peak of the Chinese import prices to the Union was the year 2014, while the development of the injury indicators of the Union industry in that same year does not bear a direct relation to the import trends from China.

- (103) The association of the Chinese exporting producers also contested the findings in recital (94) of the provisional Regulation. It disputed the existence of a causal link between the imports from China and the losses of the Union industry. Firstly, it argued that the difficulties of the Union industry started well before 2013, as demonstrated by the earlier anti-dumping complaint filed in 2012. Secondly, the increase of imports from China cannot be described to have been significant. Thirdly, the impact of the decrease of imports from China in 2013 has not been explained. Fourthly, the injury analysis should not focus on one particular year. Fifthly, the prices of the Union industry developed positively in 2014, despite the increase of imports from China. Overall, it alleged that the losses of the Union industry have fluctuated too much for there to be link with the import volumes from China. The injury to the Union industry must therefore have been caused by other factors than the imports from China.
- (104) The association of the Chinese exporting producers also claimed that the injury analysis should have been made separately for each of the three segments within the product scope (oil and gas, power generation and mechanicals/construction). Otherwise the differences between the products and prices allegedly did not allow a proper comparison. In particular, the imports from China concerned predominantly the mechanicals/construction segment, whereas the Union producers were relatively more involved in the power generation and oil and gas segments.
- (105) A Chinese exporting producer commented that according to the trade statistics the average prices from China remained stable during the period concerned. Therefore price undercutting by the imports from China cannot have been the cause of the declining sales volumes of the Union industry.
- (106) The same exporting producer also questioned the import prices from China and other countries in recital (105) of the provisional Regulation. It pointed out that the low average import prices from China do not reflect the higher prices of the sampled Chinese exporting producers.
- (107) The Commission agreed that all the injury indicators do not show a year-to-year correlation with the development of the imports from China. However, the effects are delayed from one year to the next as the prices and business relationships adjust to the increased unfair competition. As the imports from China take place through traders, the investigation of the unrelated importers has shown that there is a significant time-lag between the moment of ordering the products from China and their delivery to the end-user, resulting from the time of production, transport, stocking at the level of the trader and final delivery. The overall impact of the low-priced imports may thus only be observed over the entire period considered. None of the parties have contested the findings in recital (62) of the provisional Regulation that the imports from China entered the Union market at prices significantly undercutting the Union prices. Nor has it been contested that the imports from China increased in absolute terms during the period considered, in a context of decreasing Union consumption, which led to an even larger increase in relative terms.
- (108) As regards the segments, the Commission pointed out that the relevant differences between product types are reflected in the product control number (PCN), which ensures that only comparable products are compared with each other. The key characteristics of the segments are distinguished by the PCN: alloy and high-alloy steels (power generation segment), non-alloy steels (construction) and the specific product categories of line pipe, casing, tubing and drill pipes (oil and gas segment). Moreover, as explained in recital (25), even if separate injury margins would have been established for each segment, the total duties to be paid for a given product mix would have remained identical.
- (109) As regards the trade statistics, the Commission observed that the trade statistics do not account for the product mix, as explained in recital (58) of the provisional Regulation. The average prices may therefore represent different products in different years. By contrast, the undercutting between 15,1 % and 30,2 % in recital (62) of the provisional Regulation has been established by comparing the prices of the same product types, not the overall averages. Therefore the different product mixes of the sampled Chinese exporting producers are taken into account when establishing their individual injury margins.
- (110) Therefore the conclusions set out in recitals (91) to (95) of the provisional Regulation were confirmed.

2. Effect of other factors

- (111) In accordance with recital (114) of the provisional Regulation, the Commission further investigated the causes that have led to the significant decrease in the profitability of the Union industry.

Export performance of the Union industry

- (112) As requested in recital (98) of the provisional Regulation, the complainant provided data showing that the worldwide consumption of seamless pipes and tubes has decreased by more than 10 % during the period considered. The decrease has been concentrated in the oil-producing regions, due to a standstill in the oil and gas drilling caused by the low oil prices. By contrast, the power generation and mechanical segments have not been directly affected by the difficulties in the oil and gas segment, but they have nevertheless experienced an indirect effect. According to the Union industry, in the absence of demand from oil and gas segment the producers have sought to sell to the other segments instead, leading to more competitive pressure in the other segments too.
- (113) Following provisional disclosure, the Chinese exporting producers and their association requested, in addition to the percentages in recital (96) of the provisional Regulation, the export data of the Union industry. They also argued that the poor export performance, in particular in the oil and gas segment, has been the cause of the injury suffered by the Union industry. They argued that the impact of the lost sales has been more important than the relatively small increase of imports from China to the Union. They alleged that the cause behind the losses of the Union industry is the decrease in productivity resulting from lower production volumes.
- (114) The Commission provided below the requested export volumes:

	2012	2013	2014	IP (2015)
Exports of the Union industry (tonnes)	188 730	194 744	192 027	130 367
<i>Index (2012 = 100)</i>	100	103	102	69

- (115) As can be seen, exports of the Union industry decreased by 31 % during the period considered. This decrease of exports was thus larger than the worldwide decrease of consumption. As mentioned in recital (96) of the provisional Regulation, also the Union sales decreased during the period considered, so that the share of exports remained high, at 56 % of all sales in the IP. The other findings set out in recitals (96) and (97) of the provisional Regulation were confirmed.
- (116) The Commission concluded that the decrease of export sales had a negative impact on the financial situation of the Union industry and contributed to the injury. The decrease in sales volumes led to lower capacity utilisation and thus increased the weight of the overheads on all sales, also on the Union sales. The weak export performance was thus a factor contributing to the injury suffered by the Union industry by increasing the costs of the Union sales. Due to the adjustments to the costs of the Union producers explained in recitals (81) and (84), the impact of this cause was largely removed from the calculation of the injury margin. To the extent that the effect would not have been fully removed by the adjustments, any remaining impact on the level of the injury margin would have been only marginal.
- (117) The export performance cannot explain the injury resulting from the increase of imports from China at prices undercutting the Union prices, and the consequent depressing of the Union prices. In the absence of dumped imports, the Union producers could have sold their products in the Union market at non-injurious prices. Therefore the export performance did not break the causal link between the imports from China and the material injury suffered by the Union industry.

Sales to related parties

- (118) In the absence of comments, the conclusions set out in recitals (99) and (100) of the provisional Regulation were confirmed.

Imports from third countries and decreasing consumption due to the crisis in the oil and gas sector

- (119) Following provisional disclosure, a Chinese exporting producer commented that the increase of imports from China during the period considered was 3 344 tonnes. At the same time the Union consumption decreased by 18 212 tonnes and the imports from other third countries increased by 9 711 tonnes, out of which imports from Japan increased by 3 535 tonnes. It pointed out that all these factors had a larger impact than the increase of imports from China.
- (120) The Commission agreed that lower consumption and the increase of imports from other countries may have contributed to the injury suffered by the Union industry by reducing the sales volumes of the Union industry.
- (121) However, these factors cannot explain the increase of imports from China at prices undercutting the Union prices. The imports from China have increased in a context of decreasing consumption in the Union. In particular, as shown in recitals (101) to (105) of the provisional Regulation, the prices of the imports from the other countries were higher than the prices of the imports from China, their average prices increased during the period considered, and their market share remained small. The imports from third countries therefore cannot have been the cause of the decrease in the Union sales prices. Thus, the injury caused by the imports from the third countries both to prices and to volumes, if any, would be marginal. Therefore these factors did not break the causal link between the imports from China and the material injury suffered by the Union industry. In any event, to the extent that these factors had a more than marginal impact, they are reflected in the adjustment concerning unused capacity in recitals (84) and (85).
- (122) Following definitive disclosure, one Chinese exporting producer disputed the trade statistics data in recital (105) of the provisional Regulation, claiming that the prices of tonne of the imports from countries other than China and Japan were abnormally high. The Chinese exporting producer alleged that the underlying reason was under-declaration of the import quantities, resulting in high average prices. As a result, it claimed that the causation findings were flawed because they failed to take into account the allegedly higher volumes and lower prices of imports from third countries.
- (123) The Commission clarified that the data in recital (105) of the provisional Regulation was based on publicly available Eurostat data. The Commission completed the data in the form of a more comprehensive table, which detailed also the imports from USA and the imports from all other countries than China, Japan and the USA. It also corrected the clerical errors detected following definitive disclosure. As a result, the findings in recital (105) of the provisional Regulation were revised as follows:

On the basis of above, it is concluded that the impact of these imports is not such as to break the causal link between Chinese imports and the injury suffered by the Union industry.

Country		2012	2013	2014	IP (2015)
China	Volume (tonnes)	39 195	35 337	41 590	42 539
	<i>Index (2012 = 100)</i>	100	90	106	109
	Market share on EU consumption (%)	22,2	20,6	26,8	26,8
	<i>Index (2012 = 100)</i>	100	93	121	121
	Av. Price (EUR/tonne)	1 096	1 079	1 037	1 099
	<i>Index (2012 = 100)</i>	100	98	95	100

Country		2012	2013	2014	IP (2015)
Japan	Volume (tonnes)	2 222	8 922	3 690	5 757
	Index (2012 = 100)	100	402	166	259
	Market share on EU consumption (%)	1,3	5,2	2,4	3,6
	Index (2012 = 100)	100	414	166	259
	Av. Price (EUR/tonne)	2 146	1 700	2 779	1 143
	Index (2012 = 100)	100	79	130	53
Total of all third countries except China	Volume (tonnes)	5 313	16 308	18 387	15 024
	Index (2012 = 100)	100	307	346	283
	Market share on EU consumption (%)	3,0	9,5	11,9	9,5
	Index (2012 = 100)	100	316	394	315
	Av. Price (EUR/tonne)	2 717	2 060	2 889	4 073
	Index (2012 = 100)	100	76	106	150
USA	Volume (tonnes)	1 179	2 591	3 867	2 392
	Index (2012 = 100)	100	220	328	203
	Market share on EU consumption (%)	0,7	1,5	2,5	1,5
	Index (2012 = 100)	100	227	374	226
	Av. Price (EUR/tonne)	3 360	2 514	2 695	15 421
	Index (2012 = 100)	100	75	80	459
Total of all third countries except China, Japan and the USA	Volume (tonnes)	1 915	4 795	10 830	6 875
	Index (2012 = 100)	100	250	566	359
	Market share on EU consumption (%)	1,1	2,8	7,0	4,3
	Index (2012 = 100)	100	258	645	400
	Av. Price (EUR/tonne)	2 983	2 485	2 996	2 557
	Index (2012 = 100)	100	83	100	86

Source: European Commission (Eurostat)

- (124) The import statistics showed that the imports from the USA had a particularly high unit price during the IP. The import prices from remaining third countries were broadly in line with the Union prices and remained fairly stable over time. Thus the high average import prices reflected the variations of the import prices from the USA. The Commission noted that no evidence was submitted supporting the claim that the import statistics were wrong. In any event, considering the relatively high prices from the USA also during the previous years, and their small market share, even if there would have been an error in the statistics concerning the USA, as alleged by the Chinese exporting producer, it would not have altered the findings in recital (121) that the imports from third countries did not break the causal link between the imports from China and the material injury suffered by the Union industry.

- (125) In the absence of other comments, the conclusions set out in recitals (101) to (106) of the provisional Regulation were confirmed.

Differences in costs and profitability margins within the Union industry

- (126) In accordance with recitals (107) to (110) of the provisional Regulation, the Commission examined in more detailed the situation of one of the Union producers.
- (127) The average costs of this Union producer were indeed higher than those of the other Union producers. However, this is explained by the wide range of products than the other Union producers, including a larger proportion of the more expensive alloy and high-alloy steel products. The Union producer also sells tailor-made products directly to final customers, instead of distributors. These sales typically attract higher prices.
- (128) The Union producer demonstrated that some of the Chinese exporting producers have obtained the necessary quality certificates to supply also the most critical applications in the Union, and were thus competing also in the high-end segment in the Union for the same projects as the Union producer, thus causing a price pressure on its Union sales.
- (129) During the period considered, the Union producer lost production volumes faster than the other Union producers, notably in exports, which led to an increase in the weight of the fixed costs. There were extraordinary depreciations to reflect the difficulties in the oil and gas markets. Finally, the profitability of the Union sales was also affected by the decrease of sales prices in the Union.
- (130) Even though a part of the losses of the Union producer were due to the lost sales volumes and the consequent low capacity utilisation, the Commission also found that part of its financial losses was due to the lowering prices in the Union market. There is thus a causal link between the dumped imports from China, undercutting the Union prices, and the injury suffered by the Union producer. This causal link, affecting the Union sales prices, is not broken by the specific costs of the Union producer in 2014-2015.
- (131) As explained in recitals (81), (84), (85), (90) and (91), adjustments were made to the costs of the Union producer and the profitability of the Union sales was recalculated. The adjustments largely removed the impact of the export sales and the depreciations related to the specific situation in the oil and gas markets. To the extent that the effect would not have been fully removed by the cost adjustments, any remaining impact on the level of the injury margin would have been only marginal. Even after the cost adjustments, the profitability of the Union producer remained negatively affected by the undercutting of its sales prices in the Union.

Shifting of Union industry's focus to lower-price products

- (132) Following definitive disclosure, as explained in recital (26), one Chinese exporting producer and the association of Chinese exporting producers alleged that the difficulties encountered by the Union industry in the sales in the other segments than oil and gas were the result of the market forces, and not related to imports from China. They also claimed that the Union producers had chosen a commercial strategy to shift from oil and gas products to lower-priced segments, which caused the negative trends in profitability.
- (133) The Commission noted that the dumped imports from China had undercut the Union prices in the product scope as a whole, not only in the oil and gas segment. Therefore the injury caused by the imports from China was not limited to a particular segment. Absent the dumped imports undercutting Union prices, the Union industry would have been able to obtain higher prices in all segments, independently of the focus of Union producers. To the extent that shifting to the other segments was a source of injury, it was due to the export performance and the lowering of consumption, both of which were assessed above as other potential factors causing injury, with the conclusion that those factors could not break the causal link between the dumped imports from China and the injury suffered by the Union industry. The claim was therefore rejected.

Cumulative assessment of those other factors that have been found to contribute to injury

- (134) The Commission concluded that the other causes of injury, both separately and when taken together, did not break the causal link between the dumped imports from China and the injury suffered by the Union industry. This is because the dumped imports clearly caused injury by undercutting the Union prices and thus depressing the sales prices in the Union market.
- (135) By contrast, the other causes of injury were not related to undercutting of the Union sales prices and their cumulative impact was marginal. The injury caused by the decreasing sales volumes was unrelated to the Union prices and its effect was at most marginal after the cost adjustments to the Union producers. The imports from third countries were small, and occurred at high and increasing prices. They therefore did not cause price depression, and their effect, if any, was marginal. The specific cost structure of one Union producer was addressed by the cost adjustments, and any remaining effect after the cost adjustments was at most marginal.
- (136) Following definitive disclosure, one Chinese exporting producer argued that the general wage and cost level in China was lower than in the Union, which explained why the Chinese prices were below the Union prices. It claimed that the price undercutting was therefore a normal phenomenon, and comparisons between Union prices and import prices were unfair.
- (137) The Commission pointed out that the anti-dumping duties are imposed only in situations where the prices of the export sales are below normal value. The arguments concerning lower costs in general were therefore not pertinent.
- (138) Following definitive disclosure, another Chinese exporting producer and the association of Chinese exporting producers contested the findings on causation. They argued that the imports from China could not explain the variations of the profitability of the Union industry. They alleged that causes other than the imports from China had caused the injury to the Union industry. They argued that the cost adjustments cannot substitute the causation analysis.
- (139) The Commission noted that the cost adjustments determined the actual cost of the Union industry, as explained in recitals (81), (84), (85) and (86). Second, the Commission noted that the arguments raised following the definitive disclosure did not dispute the finding that the imports from China increased during the period considered, in a context of decreasing Union consumption. The arguments also did not dispute the finding that the imports from China had undercut the Union prices, thus causing injury to the Union industry. The Commission assessed in detail the other factors that had contributed to the injury suffered by the Union industry in recitals (111) to (135). The cumulative attribution analysis of the other factors in recitals (134) and (135) showed that the other factors, both separately and when taken together, did not break the causal link between the dumped imports from China undercutting the Union prices and the injury suffered by the EU industry, and that no injury attributable to other factors has been attributed to the dumped imports. The claims were therefore rejected.
- (140) Therefore, even when the cumulative effect of the other factors possibly contributing to injury was assessed, the causal link between dumping and injury was not broken. On this basis, the conclusions set out in recital (115) of the provisional Regulation were confirmed.

G. UNION INTEREST

- (141) Following provisional disclosure, one Chinese exporting producer disagreed with the conclusions set out in the recital (124) of the provisional Regulation, according to which there are several alternative sources of supply. However the claim was not substantiated. The findings of the investigation show that most of the unrelated importers already purchase from other sources.
- (142) The claim was rejected and the conclusions set out in recitals (116) to (132) of the provisional Regulation were confirmed.

H. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level (injury margin)

- (143) Following provisional disclosure, one Chinese exporting producer claimed that the target profit of + 5,7 % used in order to determine the injury elimination level as set out in recital (137) of the provisional Regulation was not reached in normal conditions of competition. However the claim was not substantiated and it did not specify what method or profit rate should have been used instead. The claim was therefore rejected.
- (144) The complainant argued that the appropriate level of the target profit should be + 15 %, as imports from China were already present in 2012. It suggested using profit data from the years before 2012 to support such a level.
- (145) The Commission noted that the method for provisionally determining the target profit on the basis of the year 2012 was suggested in the complaint, and that the level was based on verified data of the Union producers. The Union producers did not provide historical profit data from the years before 2012 that could be verified. The claim was therefore rejected and the conclusions set out in recitals (134) to (137) of the provisional Regulation were confirmed, as regards the method of determining the target profit on the basis of the year 2012.
- (146) At the provisional stage, the high-priced products determined the average profitability to a large degree, because the calculation was based on sales values. However, most of the Union sales and of the imports from China concern low-price commodity products. The method based on sales values therefore overstates the importance of the high-priced products compared with their actual share of the Union market. For these reasons, for the purposes of calculating the injury elimination level, the weights of the Union producers were set to correspond to their share of the sales volume, as opposed to sales value.
- (147) The weighted average profitability is as follows:

	2012	2013	2014	IP (2015)
Average profitability of the Union industry, weighted by sales volume in the Union (%)	+ 4,7	– 0,9	– 4,0	– 3,9

- (148) Thus, the profit of the year 2012 changed from + 5,7 % to + 4,7 %. The target profit was therefore set at + 4,7 %.
- (149) The weighted profitability of the Union industry in the IP and the target profit are used for the calculation of the non-injurious prices, in line with recitals (139) and (140) of the provisional Regulation.
- (150) Following definitive disclosure, one Chinese exporting producer questioned the calculation of the target unit price. It claimed that the target unit prices should be 4,7 % higher than the Union sales prices, while in the definitive disclosure the difference between the two prices had been 9 %.
- (151) The Commission clarified that the difference between Union sales price and target unit price is composed of the average loss (– 3,9 %) and of the target profit (+ 4,7 %). These percentages are calculated on the basis of the Union sales prices, as explained in recital (139) of the provisional Regulation. These same amounts lead to a difference of 9 % when expressed as a percentage of the import CIF values.
- (152) Following definitive disclosure, a second Chinese exporting producer referred to the published annual accounts of one sampled Union producer, and argued that the Union producer had been profitable in 2014, and despite having been loss-making in 2015 could be considered profitable if the costs were adjusted by eliminating the loss of value of assets, decreasing the cost of goods sold in line with the sales, and decreasing the sales, general and administrative costs in line with the sales. On this basis, the Chinese exporting producer claimed that the Union industry was profitable in 2013-2015, and therefore the injury margin calculation should not include any target profit, nor should it take into account the losses of the Union industry.

- (153) The Commission noted that the financial results in the annual accounts referred to the results of the entire group and of all products, while the findings of the investigation concerned specifically the Union sales of the product concerned. Hence, the profitability of the Union sales of the product concerned could not be calculated on the basis of the published accounts, as they did not refer to the same scope of activity.
- (154) The comments concerning the method for establishing the injury elimination level were addressed in the recitals (75) to (78). In the absence of other comments, the conclusions set out in recitals (138) to (141) of the provisional Regulation were confirmed.

2. Definitive measures

- (155) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed on the imports of the product concerned, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins. The amount of the duties should be set at the level of the lower of the dumping and injury margins.
- (156) On the basis of the above, the definitive anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Injury margin (%)	Dumping margin (%)	Definitive anti-dumping duty rate (%)
Yangzhou Chengde Steel Pipe Co., Ltd	29,2	45,4	29,2
Hubei Xinyegang Special Tube Co., Ltd	54,9	103,8	54,9
Yangzhou Lontrin Steel Tube Co., Ltd	44,6	39,9	39,9
Hengyang Valin MPM Co., Ltd	48,2	92,9	48,2
Zhejiang Gross Seamless Steel Tube Co., Ltd	41,4	52,3	41,4
Other cooperating producers	45,6	73,6	45,6
All other producers	54,9	103,8	54,9

- (157) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflected the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entities. Imports of product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (158) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ⁽¹⁾. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice informing about the change of name will be published in the *Official Journal of the European Union*.
- (159) To minimise the risks of circumvention due to a difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) hereof. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

⁽¹⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

- (160) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but also to the producers which did not have exports to the Union during the investigation period.

3. Definitive collection of the provisional duties

- (161) In view of the dumping margins found and given the level of the injury caused to the Union industry, the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, should be definitively collected to the extent of the amount of the definitive duties.
- (162) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of certain seamless pipes and tubes of iron (other than cast iron) or steel (other than stainless steel), of circular cross section, of an external diameter exceeding 406,4 mm, currently falling within CN codes 7304 19 90, ex 7304 29 90, 7304 39 98 and 7304 59 99 (TARIC code 7304 29 90 90) and originating in the People's Republic of China.

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

Company	Definitive anti-dumping duty rate (%)	TARIC additional code
Yangzhou Chengde Steel Pipe Co., Ltd	29,2	C171
Hubei Xinyegang Special Tube Co., Ltd	54,9	C172
Yangzhou Lontrin Steel Tube Co., Ltd	39,9	C173
Hengyang Valin MPM Co., Ltd	48,2	C174
Zhejiang Gross Seamless Steel Tube Co., Ltd	41,4	C204
Companies listed in the Annex	45,6	C998
All other producers	54,9	C999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty applicable to all other companies shall apply. This requirement shall not apply to duties secured by the way of the provisional anti-dumping duties pursuant to the Regulation (EU) 2016/1977.

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

Article 2

Where any exporting producer from China provides sufficient evidence to the Commission that:

- (i) it did not export the goods described in Article 1(1) originating in China during the period of investigation (1 January-31 December 2015);
- (ii) it is not related to an exporter or producer subject to the measures imposed by this Regulation; and
- (iii) it has either actually exported the goods concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation,

the Article 1(2) may be amended by adding the new exporting producer to the list in Annex.

Article 3

The amounts secured by way of the provisional anti-dumping duties pursuant to the Regulation (EU) 2016/1977 shall be definitively collected. The amounts secured in excess of the definitive rates of the anti-dumping duty shall be released.

Article 4

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

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

Done at Brussels, 11 May 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

The People's Republic of China cooperating exporting producers not sampled:

Company	TARIC additional code
Tianjin Pipe Manufacturing Co., Ltd	C998
Shandong Luxing Steel Pipe Co., Ltd	C998
Inner Mongolia Baotou Steel Union Co., Ltd	C998
Wuxi SP. Steel Tube Manufacturing Co., Ltd	C998
Zhangjiagang Tubes China Co., Ltd	C998
TianJin TianGang Special Petroleum Pipe Manufacture Co., Ltd	C998
Shandong Zhongzheng Steel Pipe Manufacturing Co., Ltd	C998

COMMISSION IMPLEMENTING REGULATION (EU) 2017/805**of 11 May 2017****renewing the approval of the active substance flazasulfuron in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 20(1) thereof,

Whereas:

- (1) Commission Directive 2004/30/EC ⁽²⁾ included flazasulfuron as an active substance in Annex I to Council Directive 91/414/EEC ⁽³⁾.
- (2) Active substances included in Annex I to Directive 91/414/EEC are deemed to have been approved under Regulation (EC) No 1107/2009 and are listed in Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽⁴⁾.
- (3) The approval of the active substance flazasulfuron, as set out in Part A of the Annex to Implementing Regulation (EU) No 540/2011, expires on 31 January 2018.
- (4) An application for the renewal of the approval of flazasulfuron was submitted in accordance with Article 1 of Commission Implementing Regulation (EU) No 844/2012 ⁽⁵⁾ within the time period provided for in that Article.
- (5) The applicant submitted the supplementary dossiers required in accordance with Article 6 of Implementing Regulation (EU) No 844/2012. The application was found to be complete by the rapporteur Member State.
- (6) The rapporteur Member State prepared a renewal assessment report in consultation with the co-rapporteur Member State and submitted it to the European Food Safety Authority ('the Authority') and the Commission on 14 August 2015.
- (7) The Authority communicated the renewal assessment report to the applicant and to the Member States for comments and forwarded the comments received to the Commission. The Authority also made the supplementary summary dossier available to the public.
- (8) On 10 August 2016 ⁽⁶⁾ the Authority communicated to the Commission its conclusion on whether flazasulfuron can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009. The Commission presented the renewal report for flazasulfuron to the Standing Committee on Plants, Animals, Food and Feed on 6 October 2016.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ Commission Directive 2004/30/EC of 10 March 2004 amending Council Directive 91/414/EEC to include benzoic acid, flazasulfuron and pyraclostrobin as active substances (OJ L 77, 13.3.2004, p. 50).

⁽³⁾ Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1).

⁽⁴⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

⁽⁵⁾ Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

⁽⁶⁾ EFSA Journal 2016; 14(9):4575, 24 pp. Available online: www.efsa.europa.eu

- (9) It has been established with respect to one or more representative uses of at least one plant protection product containing flazasulfuron that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied. It is therefore appropriate to renew the approval of flazasulfuron.
- (10) The risk assessment for the renewal of the approval of flazasulfuron is based on a limited number of representative uses, which however do not restrict the uses for which plant protection products containing flazasulfuron may be authorised. It is therefore appropriate not to maintain the restriction to use only as a herbicide.
- (11) In accordance with Article 14(1) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions and restrictions. It is, in particular, appropriate to require further confirmatory information.
- (12) In accordance with Article 20(3) of Regulation (EC) No 1107/2009, in conjunction with Article 13(4) thereof, the Annex to Implementing Regulation (EU) No 540/2011 should be amended accordingly.
- (13) Commission Implementing Regulation (EU) 2016/2016 ⁽¹⁾ extended the approval period of flazasulfuron to 31 January 2018 in order to allow the renewal process to be completed before the expiry date of the approval of that substance. However, given that a decision on renewal has been taken ahead of this extended expiry date, this Regulation shall apply from 1 August 2017.
- (14) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Renewal of the approval of active substance

The approval of the active substance flazasulfuron, as specified in Annex I, is renewed subject to the conditions laid down in that Annex.

Article 2

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

Article 3

Entry into force and application

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

It shall apply from 1 August 2017.

⁽¹⁾ Commission Implementing Regulation (EU) 2016/2016 of 17 November 2016 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances acetamiprid, benzoic acid, flazasulfuron, mecoprop-P, mepanipyrim, mesosulfuron, propineb, propoxycarbazon, propyzamide, propiconazole, Pseudomonas chlororaphis Strain: MA 342, pyraclostrobin, quinoxifen, thiacloprid, thiram, ziram, zoxamide (OJ L 312, 18.11.2016, p. 21).

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

Done at Brussels, 11 May 2017.

For the Commission

The President

Jean-Claude JUNKER

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
Flazasulfuron CAS No 104040-78-0 CIPAC No 595	1-(4,6-dimethoxypyrimidin-2-yl)-3-(3-trifluoromethyl-2-pyridylsulphonyl)urea	≥ 960 g/kg	1 August 2017	31 July 2032	For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the renewal report on flazasulfuron, and in particular Appendices I and II thereof, shall be taken into account. In this overall assessment Member States shall pay particular attention to: — the protection of aquatic plants, — the protection of non-target terrestrial plants, — the protection of groundwater, when the substance is applied in regions with vulnerable soil and/or climatic conditions. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit to the Commission, the Member States and the Authority confirmatory information as regards the effect of water treatment processes on the nature of residues present in drinking water within a period of two years a guidance document on evaluation of the effect of water treatment processes on the nature of residues present in surface and groundwater being made public by the Commission.

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

The Annex to Implementing Regulation (EU) No 540/2011 is amended as follows:

(1) in Part A, entry 80 on flazasulfuron is deleted;

(2) in Part B, the following entry 108 is added:

Number	Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
'108	Flazasulfuron CAS No 104040-78-0 CIPAC No 595	1-(4,6-dimethoxypyrimidin-2-yl)-3-(3-trifluoromethyl-2-pyridylsulphonyl)urea	≥ 960 g/kg	1 August 2017	31 July 2032	For the implementation of the uniform principles, as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the renewal report on flazasulfuron, and in particular Appendices I and II thereof, shall be taken into account. In this overall assessment Member States shall pay particular attention to: — the protection of aquatic plants, — the protection of non-target terrestrial plants, — the protection of groundwater, when the substance is applied in regions with vulnerable soil and/or climatic conditions. Conditions of use shall include risk mitigation measures, where appropriate. The applicant shall submit to the Commission, the Member States and the Authority confirmatory information as regards the effect of water treatment processes on the nature of residues present in drinking water within a period of two years a guidance document on evaluation of the effect of water treatment processes on the nature of residues present in surface and groundwater being made public by the Commission.'

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

COMMISSION IMPLEMENTING REGULATION (EU) 2017/806**of 11 May 2017****approving the low-risk active substance *Bacillus amyloliquefaciens* strain FZB24, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ⁽¹⁾, and in particular Article 22(1) in conjunction with Article 13(2) thereof,

Whereas:

- (1) In accordance with Article 7(1) of Regulation (EC) No 1107/2009 France received on 19 June 2013 an application from Novozymes Biologicals France for the approval of the active substance *Bacillus amyloliquefaciens* strain FZB24.
- (2) In accordance with Article 9(3) of that Regulation, France, as rapporteur Member State, notified the applicant, the other Member States, the Commission and the European Food Safety Authority ('the Authority') of the admissibility of the application on 4 September 2013.
- (3) On 13 April 2015, the rapporteur Member State submitted a draft assessment report to the Commission with a copy to the Authority, assessing whether that active substance can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009.
- (4) The Authority complied with Article 12(1) of Regulation (EC) No 1107/2009. In accordance with Article 12(3) of Regulation (EC) No 1107/2009, it requested that the applicant supply additional information to the Member States, the Commission and the Authority. The assessment of the additional information by the rapporteur Member State was submitted to the Authority in the format of an updated draft assessment report on 22 February 2016.
- (5) On 10 May 2016, the Authority communicated to the applicant, the Member States and the Commission its conclusion ⁽²⁾ on whether the active substance *Bacillus amyloliquefaciens* strain FZB24 can be expected to meet the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009. The Authority made its conclusion available to the public.
- (6) On 6 October 2016, the Commission presented to the Standing Committee on Plants, Animals, Food and Feed the review report for *Bacillus amyloliquefaciens* strain FZB24 and a draft Regulation providing that *Bacillus amyloliquefaciens* strain FZB24 is approved.
- (7) The applicant was given the possibility to submit comments on the review report.
- (8) It has been established with respect to one or more representative uses of at least one plant protection product containing the active substance, and in particular the uses which were examined and detailed in the review report, that the approval criteria provided for in Article 4 of Regulation (EC) No 1107/2009 are satisfied. Those approval criteria are therefore deemed to be satisfied. It is therefore appropriate to approve *Bacillus amyloliquefaciens* strain FZB24.

⁽¹⁾ OJ L 309, 24.11.2009, p. 1.

⁽²⁾ EFSA (European Food Safety Authority), 2016. Conclusion on the peer review of the pesticide risk assessment of the active substance *Bacillus amyloliquefaciens* strain FZB24. EFSA Journal 2016;14(6):4494, 18 pp. doi:10.2903/j.efsa.2016.4494.

- (9) The Commission further considers that *Bacillus amyloliquefaciens* strain FZB24 is a low-risk active substance pursuant to Article 22 of Regulation (EC) No 1107/2009. *Bacillus amyloliquefaciens* strain FZB24 is not a substance of concern and fulfils the conditions set in point 5 of Annex II to Regulation (EC) No 1107/2009. *Bacillus amyloliquefaciens* strain FZB24 is a wild-type strain naturally occurring in the environment. It is not pathogenic to humans or animals. The additional exposure of humans, animals and the environment by the uses approved under Regulation (EC) No 1107/2009 is expected to be negligible compared to exposure expected through realistic natural situations.
- (10) It is therefore appropriate to approve *Bacillus amyloliquefaciens* strain FZB24 substance for a period of 15 years.
- (11) In accordance with Article 13(2) of Regulation (EC) No 1107/2009 in conjunction with Article 6 thereof and in the light of current scientific and technical knowledge, it is, however, necessary to include certain conditions.
- (12) In accordance with Article 13(4) of Regulation (EC) No 1107/2009, the Annex to Commission Implementing Regulation (EU) No 540/2011 ⁽¹⁾ should be amended accordingly.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Approval of active substance

The active substance *Bacillus amyloliquefaciens* strain FZB24, as specified in Annex I, is approved subject to the conditions laid down in that Annex.

Article 2

Amendments to Implementing Regulation (EU) No 540/2011

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with Annex II to this Regulation.

Article 3

Entry into force

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, 11 May 2017.

For the Commission
The President
Jean-Claude JUNCKER

⁽¹⁾ Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

ANNEX I

Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
<i>Bacillus amyloliquefaciens</i> strain FZB24. Accession number in the culture collection of the 'Deutsche Sammlung von Mikroorganismen' (DSM), Germany: 10271 Accession number at the Agricultural Research Service Culture Collection (NRRL), USA: B-50304	Not applicable	Minimum concentration: 2×10^{14} CFU/kg	1 June 2017	1 June 2032	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on <i>Bacillus amyloliquefaciens</i> strain FZB24, and in particular Appendices I and II thereof, shall be taken into account. In this overall assessment Member States shall pay particular attention to: — specification of the technical material as commercially manufactured, including full characterisation of impurities and metabolites; — the protection of operators and workers, taking into account that microorganisms are considered as potential sensitizers. Strict maintenance of environmental conditions and quality control analysis during the manufacturing process shall be assured by the producer. Conditions of use shall include risk mitigation measures, where appropriate.

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

ANNEX II

In Part D of the Annex to Implementing Regulation (EU) No 540/2011, the following entry is added:

	Common Name, Identification Numbers	IUPAC Name	Purity ⁽¹⁾	Date of approval	Expiration of approval	Specific provisions
'10	<i>Bacillus amyloliquefaciens</i> strain FZB24. Accession number in the culture collection of the 'Deutsche Sammlung von Mikroorganismen' (DSM), Germany: 10271 Accession number at the Agricultural Research Service Culture Collection (NRRL), USA: B-50304	Not applicable	Minimum concentration: 2×10^{14} CFU/kg	1 June 2017	1 June 2032	For the implementation of the uniform principles as referred to in Article 29(6) of Regulation (EC) No 1107/2009, the conclusions of the review report on <i>Bacillus amyloliquefaciens</i> strain FZB24, and in particular Appendices I and II thereof, shall be taken into account. In this overall assessment Member States shall pay particular attention to: — specification of the technical material as commercially manufactured, including full characterisation of impurities and metabolites; — the protection of operators and workers, taking into account that microorganisms are considered as potential sensitizers. Strict maintenance of environmental conditions and quality control analysis during the manufacturing process shall be assured by the producer. Conditions of use shall include risk mitigation measures, where appropriate.'

⁽¹⁾ Further details on identity and specification of active substance are provided in the review report.

COMMISSION IMPLEMENTING REGULATION (EU) 2017/807**of 11 May 2017**

derogating from Implementing Regulation (EU) No 809/2014 as regards the final date of submission of the single application, aid applications or payment claims, the final date for notification of amendments to the single application or payment claim and the final date for applications for allocation of payment entitlements or the increase of the value of payment entitlements under the basic payment scheme for the year 2017

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 ⁽¹⁾, and in particular point (b) of the first paragraph and the second paragraph of Article 78 thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) No 809/2014 ⁽²⁾ provides for the final date of submission of the single application, aid applications or payment claims, for the final date for notification of amendments to the single application or payment claim and for the final date for submission of applications for allocation of payment entitlements or the increase of the value of payment entitlements under the basic payment scheme.
- (2) Several Member States are implementing changes to their administrative system for direct payments, involving inter alia structural changes to their land parcel identification system and a reorganisation of the information technology. Those changes coincide with an important step in the compulsory introduction of the geo-spatial aid application. As a result, administrative difficulties have been encountered in those Member States.
- (3) That situation has affected the possibility of beneficiaries to submit the single application, aid applications or payment claims and applications for allocation of payment entitlements or the increase of the value of payment entitlements under the basic payment scheme within the time limits provided for in Articles 13(1) and 22(1) of Implementing Regulation (EU) No 809/2014.
- (4) In view of that situation, it is appropriate to provide for a derogation from Articles 13(1) and 22(1) of Implementing Regulation (EU) No 809/2014 which enables Member States to fix for the year 2017 a final date of submission of the single application, aid applications or payment claims and a final date for submission of applications for allocation of payment entitlements or the increase of the value of payments entitlements under the basic payment scheme that are later than those provided for in those Articles. Since the dates and periods referred to in Articles 11(4), 15(2) and (2a) of Implementing Regulation (EU) No 809/2014 are linked to the final date provided for in Article 13(1) of that Regulation, a similar derogation should be provided for the notification of the results of preliminary checks and of amendments to the single application or payment claim.
- (5) Since those derogations should cover the single application, aid applications and payment claims, amendments to the single application or payment claim and applications for allocation of payment entitlements for the year 2017, it is appropriate that this Regulation applies to applications and payment claims relating to the year 2017.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Direct Payments and the Committee for Rural Development,

⁽¹⁾ OJ L 347, 20.12.2013, p. 549.

⁽²⁾ Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance (OJ L 227, 31.7.2014, p. 69).

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from the first subparagraph of Article 13(1) of Implementing Regulation (EU) No 809/2014, for the year 2017, the final dates to be fixed by Member States by which the single application, aid applications or payment claims have to be submitted shall not be later than 15 June.

Article 2

By way of derogation from Article 15(2) of Implementing Regulation (EU) No 809/2014, for the year 2017, in Member States using the derogation provided for in Article 1 of this Regulation the amendments made to the single application or payment claim in accordance with Article 15(1) of Implementing Regulation (EU) No 809/2014 shall be notified to the competent authority by 15 June.

Article 3

The derogations provided for in Articles 1 and 2 shall also apply in the Member States concerned for the purpose of calculating the periods of 26, 35 and 10 calendar days, respectively, after the final date of submission of the single application, aid application or payment claims and the final date for notification of amendments as referred to in Articles 11(4) and 15(2a) of Implementing Regulation (EU) No 809/2014.

Article 4

By way of derogation from Article 22(1) of Implementing Regulation (EU) No 809/2014, for the year 2017, the date to be fixed by Member States for the submission of applications for allocation of payment entitlements or the increase of the value of payment entitlements under the basic payment scheme shall not be later than 15 June.

Article 5

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

It shall apply to applications and payment claims relating to the year 2017.

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

Done at Brussels, 11 May 2017.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2017/808**of 11 May 2017****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 Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) 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 multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex 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, 11 May 2017.

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

Jerzy PLEWA

Director-General

Directorate-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 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	EG	176,8
	MA	99,1
	TN	158,2
	TR	93,0
	ZZ	131,8
0707 00 05	MA	79,4
	TR	126,8
	ZZ	103,1
0709 93 10	TR	140,7
	ZZ	140,7
0805 10 22, 0805 10 24, 0805 10 28	EG	51,8
	MA	57,9
	ZZ	54,9
0805 50 10	TR	65,0
	ZA	147,3
	ZZ	106,2
0808 10 80	AR	106,8
	BR	115,8
	CL	109,0
	CN	145,5
	NZ	146,8
	US	111,3
	ZA	96,5
	ZZ	118,8

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION (CFSP) 2017/809

of 11 May 2017

in support of the implementation of United Nations Security Council Resolution 1540 (2004) on the non-proliferation of weapons of mass destruction and their means of delivery

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 26(2) and 31(1) thereof,

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

Whereas:

- (1) On 12 December 2003 the European Council adopted the EU strategy against the proliferation of weapons of mass destruction, Chapter III of which contains a list of measures to combat such proliferation which need to be taken both within the Union and in third countries.
- (2) The Union is actively implementing that strategy and is giving effect to the measures listed in Chapter III thereof, in particular by releasing financial resources to support specific projects conducted by multilateral institutions, providing States in need with technical assistance and expertise with regard to a wide range of non-proliferation measures, and fostering the role of the United Nations (UN) Security Council.
- (3) On 28 April 2004 the UN Security Council adopted Resolution 1540 (2004) ('UNSCR 1540 (2004)'), which was the first international instrument to deal in an integrated and comprehensive manner with weapons of mass destruction, their means of delivery and related materials. UNSCR 1540 (2004) established binding obligations for all States which aimed to prevent and deter non-State actors from obtaining access to such weapons and weapon-related material. It also called upon States to present the Committee of the Security Council established by UNSCR 1540 (2004) (the '1540 Committee') with a report on steps which they have taken or intend to take to implement UNSCR 1540 (2004).
- (4) On 27 April 2006 the UN Security Council adopted Resolution 1673 (2006) and decided that the 1540 Committee was to intensify its efforts to promote the full implementation of UNSCR 1540 (2004) through programmes of work, outreach, assistance, dialogue and cooperation. It also invited the 1540 Committee to explore with States and international, regional and sub-regional organisations the possibility of sharing experience and lessons learned, and the availability of programmes which might facilitate the implementation of UNSCR 1540 (2004).
- (5) On 20 April 2011 the UN Security Council adopted Resolution 1977 (2011) and decided to extend the mandate of the 1540 Committee for a period of 10 years until 25 April 2021. It also decided that the 1540 Committee was to continue to intensify its efforts to promote the full implementation by all States of UNSCR 1540 (2004), to engage actively in matching offers and requests for assistance, through such means as visits at the invitation of the State concerned, assistance templates, action plans or other information submitted to the 1540 Committee and to conduct a comprehensive review on the status of implementation of UNSCR 1540 (2004) before December 2016.
- (6) On 15 December 2016 the Security Council unanimously adopted Resolution 2325 (2016) and thereby endorsed the outcome of the comprehensive review process of UNSCR 1540 (2004) conducted during 2016. It called on all States to strengthen national measures in implementing UNSCR 1540 (2004) and called for greater assistance for building State capability in that regard, including through voluntary contributions, as well as for greater cooperation among stakeholders, civil society and academia.

- (7) The implementation of Council Joint Action 2006/419/CFSP ⁽¹⁾, Council Joint Action 2008/368/CFSP ⁽²⁾ and Council Decision 2013/391/CFSP ⁽³⁾ contributed to diminishing significantly the number of non-reporting States and the number of States which did not submit additional information required by the 1540 Committee following their submission of incomplete reports.
- (8) The UN Office for Disarmament Affairs (UNODA), which is responsible for providing the 1540 Committee and its Group of Experts with substantive and logistical support, should be entrusted with the technical implementation of the projects to be carried out under this Decision.
- (9) This Decision should be implemented in accordance with the Financial and Administrative Framework Agreement concluded by the Commission with the UN concerning the management of financial contributions by the Union to programmes or projects administered by the UN,

HAS ADOPTED THIS DECISION:

Article 1

1. In accordance with the EU strategy against the proliferation of weapons of mass destruction (the 'EU strategy'), which sets the objective of fostering the role of the UN Security Council and enhancing its expertise in meeting the challenges of proliferation, the Union shall further support the implementation of United Nations Security Council Resolution (UNSCR) 1540 (2004) and UNSCR 1977 (2011).
2. The projects in support of UNSCR 1540 (2004), corresponding to measures in line with the EU strategy, shall consist of sub-regional workshops, country visits, meetings, events, training and public relations efforts.
3. The aims of the projects shall consist of:
 - enhancing the relevant national and regional efforts and capabilities, primarily through training, capacity-building and assistance facilitation in close coordination with other Union programmes and other actors involved in the implementation of UNSCR 1540 (2004), to ensure synergies and complementarity;
 - contributing to the practical implementation of specific recommendations of both the 2009 comprehensive review on the status of implementation of UNSCR 1540 (2004) and the outcome of the comprehensive review conducted during 2016, in particular in the areas of technical assistance, international cooperation and raising public awareness;
 - supporting the development of voluntary UNSCR 1540 (2004) national implementation action plans upon States' request;
 - promoting the engagement of relevant stakeholders from industry and civil society in the implementation of UNSCR 1540 (2004).
4. A detailed description of the projects is set out in the Annex.

Article 2

1. The High Representative shall be responsible for the implementation of this Decision.

⁽¹⁾ Council Joint Action 2006/419/CFSP of 12 June 2006 in support of the implementation of the United Nations Security Council Resolution 1540 (2004) and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 165, 17.6.2006, p. 30).

⁽²⁾ Council Joint Action 2008/368/CFSP of 14 May 2008 in support of the implementation of the United Nations Security Council Resolution 1540 (2004) and in the framework of the implementation of the EU strategy against proliferation of weapons of mass destruction (OJ L 127, 15.5.2008, p. 78).

⁽³⁾ Council Decision 2013/391/CFSP of 22 July 2013 in support of the practical implementation of United Nations Security Council Resolution 1540 (2004) on non-proliferation of weapons of mass destruction and their means of delivery (OJ L 198, 23.7.2013, p. 40).

2. The technical implementation of the projects referred to in Article 1(2) shall be carried out by UNODA, in cooperation with the Organization for Security and Co-operation in Europe (OSCE), the African Union, the Organization of American States and the League of Arab States, as appropriate. UNODA shall conclude an agreement with the OSCE regarding the transfer of funds required for the implementation of specific OSCE projects.
3. UNODA shall carry out the technical implementation of the projects referred to in Article 1(2) under the responsibility and the control of the High Representative. For that purpose, the High Representative shall enter into the necessary arrangements with UNODA.

Article 3

1. The financial reference amount for the implementation of the projects referred to in Article 1(2) shall be EUR 2 635 170,77. The total estimated budget of the overall project shall be EUR 2 672 770,77, which shall be provided through co-financing from the general budget of the European Union.
2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the European Union.
3. The Commission shall supervise the proper management of the expenditure referred to in paragraph 2. For that purpose, the Commission shall conclude a financing agreement with UNODA. The agreement shall stipulate that UNODA is to ensure visibility of the Union contribution, appropriate to its size. It shall also stipulate that the ultimate responsibility regarding the technical implementation of the projects referred to in Article 1(2) vis-à-vis the Commission shall lie with UNODA.
4. The Commission shall endeavour to conclude the financing agreement referred to in paragraph 3 as soon as possible after the entry into force of this Decision. It shall inform the Council of any difficulties in that process and of the date of conclusion of the financing agreement.

Article 4

The High Representative shall report to the Council on the implementation of this Decision on the basis of regular reports prepared by UNODA. Those reports shall form the basis for the evaluation carried out by the Council. The Commission shall provide information on the financial aspects of the projects referred to in Article 1(2).

Article 5

1. This Decision shall enter into force on the date of its adoption.
2. This Decision shall expire 36 months after the conclusion of the financing agreement referred to in Article 3(3), or six months after the date of its adoption if no financing agreement has been concluded within that period.

Done at Brussels, 11 May 2017.

For the Council
The President
C. CARDONA

ANNEX

1. OBJECTIVE

The overall objective of this Decision is to promote the implementation of UNSCRs 1540 (2004) and 1977 (2011), within the framework of the implementation of the EU strategy against proliferation of weapons of mass destruction, through specific measures with the following aims: to enhance the relevant national and regional efforts and capabilities primarily through capacity-building and assistance facilitation; to contribute to the practical implementation of specific recommendations of both the 2009 comprehensive review on the status of implementation of UNSCR 1540 (2004) and the outcome of the comprehensive review conducted during 2016, in particular in the areas of technical assistance, international cooperation and raising public awareness.

2. MEASURES**2.1. Objectives of the measures**

- To support country-specific and regional implementation activities, including the development of voluntary national implementation action plans or roadmaps for the implementation of key requirements of UNSCR 1540 (2004), training for national experts, strengthening regional/sub-regional coordination efforts and other activities designed to promote a sustained national and sub-regional implementation process;
- To promote and support universality of reporting as called for by UNSCR 1540 (2004);
- To strengthen the role of industry and civil society in implementing UNSCR 1540 (2004);
- To raise awareness amongst policy-makers and representatives from industry and civil society regarding the importance of the implementation of UNSCR 1540 (2004);
- To enhance sub-regional, regional and international cooperation regarding the implementation of UNSCR 1540 (2004) with due regard to the role played by the 1540 Committee and its Group of Experts, as well as to the Committee's programme of work;
- To contribute to achieving greater synergies in the efforts of international stakeholders in the implementation of UNSCR 1540 (2004), in particular in the OSCE region.

2.2. Description of the measures

- (a) UNODA, acting in close liaison with the 1540 Committee, will respond to up to seven assistance requests from States, giving priority to States from the OSCE region, the African region as well as the Gulf and Middle East region. The assistance provided will be designed to enable States to take additional, practical steps to implement the obligations of UNSCR 1540 (2004) at national level, thereby responding to assistance requests by States to the 1540 Committee. Such assistance will complement the matchmaking function of the 1540 Committee, but not include the provision or procurement of technical equipment.
- (b) UNODA will support efforts to achieve universality of reporting. While UNSCR 1540 (2004) calls upon States to present a first report no later than six months from the adoption of the Resolution to the 1540 Committee on steps they have taken or intend to take to implement that Resolution, there are still a number of non-reporting States. In that context, UNODA will support through its Regional Centre in Africa (UNREC) and its Regional Centre in Asia and the Pacific (UNRCPD), and in close association with the African Union and relevant regional European Union Chemical, Biological, Radiological and Nuclear Risk Mitigation Centres of Excellence (the 'EU CBRN Centres of Excellence'), up to five national or regional activities specifically targeted at non-reporting States.
- (c) Furthermore, UNODA will support three regional/sub-regional training courses for national points of contact nominated by States with a view to coordinating national implementation of UNSCR 1540 (2004) and assisting in the development of a network of points of contact as well as improving their communication with the 1540 Committee.

- (d) UNODA will subcontract, among other activities, to the OSCE Secretariat a study on how to promote further synergies in the efforts of relevant international stakeholders involved in the implementation of UNSCR 1540 (2004) in the OSCE region.
- (e) UNODA will support up to three UNSCR 1540 (2004) regional industry conferences. Since 2012, the Government of Germany, with the support of the EU outreach programme for dual-use items and UNODA, hosted four conferences in the city of Wiesbaden for stakeholders from industry and civil society in order to encourage industry and private-sector engagement in the implementation of UNSCR 1540 (2004). One of the outcomes of the fourth such conference, held in November 2015 in cooperation with the 1540 Committee, its Group of Experts and UNODA, was a common understanding to strengthen the regional approach, i.e. to carry out similar conferences in locations including Asia, Latin America and the OSCE region. Future regional conferences for stakeholders from industry should be complementary to the work under the relevant Union programmes, e.g. the EU CBRN Centres of Excellence and/or the EU P2P Export Control Programme for dual-use items.
- (f) UNODA will organise or support workshops for representatives of civil society, academia and industry aimed at the practical implementation of the 2016 comprehensive review of the status of the implementation of UNSCR 1540 (2004). In that context, UNODA will support the participation of national officials of States requesting assistance in training courses and other capacity-building activities.

As appropriate, UNODA will seek synergies with the activities of other actors involved in the implementation of UNSCR 1540 (2004), the regional EU CBRN Centres of Excellence as well as other Union-sponsored programmes in this field.

2.3. Results of the measures

Improved implementation of UNSCR 1540 (2004) through additional steps to be undertaken by States towards its full implementation; development of effective and realistic national action plans or road maps for the implementation of the key requirements of that resolution; enhanced regional and sub-regional coordinated approaches to the implementation of UNSCR 1540 (2004); and the establishment of effective partnerships between participating States and assistance providers.

A higher number of first reports from States that have yet to submit their first national report on the implementation of UNSCR 1540 (2004).

Greater involvement of representatives of industry and civil society in international, regional and national UNSCR 1540 (2004) implementation efforts.

Enhanced public awareness of the importance of full implementation of UNSCR 1540 (2004) and the results of the 2009 and 2016 comprehensive reviews.

3. PARTNERS FOR THE MEASURES

UNODA, acting in close liaison with the 1540 Committee, will continue developing effective partnerships with relevant regional organisations, in particular the OSCE, the African Union and the League of Arab States, as well as with the EU CBRN Centres of Excellence, which benefit from financial support from the European Commission and are implemented jointly by the Joint Research Centre (JRC) and the UN Interregional Crime and Justice Research Institute (UNICRI).

With regard to projects in the OSCE region, UNODA shall conclude an agreement with the OSCE regarding the transfer of funds required for the implementation of such projects, thereby making full use of the Memorandum of Understanding on joint implementation of projects on non-proliferation of weapons of mass destruction that UNODA and the OSCE Secretariat concluded in 2011.

UNODA will also maintain its cooperation with other international organisations and agencies, including the International Atomic Energy Agency (IAEA), the Organisation for the Prohibition of Chemical Weapons (OPCW), the World Health Organization (WHO), the Food and Agriculture Organization of the United Nations (FAO) and the World Organisation for Animal Health (OIE), to ensure effective synergies and avoid duplication.

4. INTERACTION WITH UNION EFFORTS

Based on the regular feedback from UNODA on its activities, the Union may decide to complement those efforts through targeted diplomatic action aimed at raising awareness regarding the implementation of national action plans and the submission of national reports.

5. BENEFICIARIES OF THE MEASURES

- States, government officials;
- 1540 Committee and other UN entities;
- International, regional and sub-regional organisations;
- Governments and organisations providing and receiving technical assistance under UNSCR 1540 (2004);
- Civil society and industry.

6. VENUE

UNODA will select potential venues for the meetings, workshops and other events. The criteria used for choosing the venues will include the willingness and commitment of a relevant State in a particular region to host the event. Specific locations of country visits or country-specific activities will depend on invitations from interested States and, as appropriate, on decisions of the 1540 Committee in accordance with the Committee's programme of work.

7. DURATION

The total estimated duration of the project is 36 months.

COMMISSION IMPLEMENTING DECISION (EU) 2017/810**of 10 May 2017****on a derogation from mutual recognition of the authorisation of a biocidal product containing boric acid by France in accordance with Article 37 of Regulation (EU) No 528/2012 of the European Parliament and of the Council***(notified under document C(2017) 2935)***(Only the French text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular Article 37(2)(b) thereof,

Whereas:

- (1) The company Rütgers Organics GmbH ('the applicant') submitted a complete application to France for mutual recognition of an authorisation granted by Germany in respect of a wood preservative containing the active substance boric acid ('the product'). Germany authorised the product for the preventive treatment against wood rotting fungi, insects and subterranean and dry-wood termites by professional users.
- (2) Boric acid is classified in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council ⁽²⁾ as toxic for reproduction category 1B and therefore meets the exclusion criterion referred to in Article 5(1)(c) of Regulation (EU) No 528/2012. In accordance with the third subparagraph of Article 5(2) of that Regulation, the use of a biocidal product containing boric acid shall be restricted to Member States in which at least one of the conditions set out in that paragraph is met.
- (3) France considered that none of the conditions of Article 5(2) of Regulation (EU) No 528/2012 were satisfied and communicated to the applicant, pursuant to Article 37(2) of that Regulation, its proposal to refuse to grant the authorisation in France. The justification of such refusal is the protection of health and life of humans, particularly of vulnerable groups, as referred to in Article 37(1)(c) of that Regulation.
- (4) The applicant disagreed with the proposed refusal and considered that that measure is not sufficiently justified on the grounds laid down in Article 37(1) of Regulation (EU) No 528/2012. As a result, on 6 October 2016 France informed the Commission in accordance with the second subparagraph of Article 37(2) of that Regulation.
- (5) From the arguments put forward by France, it follows that the risk associated with the use by professional users of the product, while acceptable according to the relevant exposure assessment models, is not negligible; other wood preservatives containing active substances not meeting the exclusion criteria referred to in Article 5(1) of Regulation (EU) No 528/2012 are available on the French market for the intended uses in the product, and that the product was so far not available on the French market. Thus, France considers the product as not essential to control any serious danger to human health, animal health or the environment and that not authorising the product in France would not have any disproportionate negative impact on the French society.
- (6) None of the conditions of Article 5(2) of Regulation (EU) No 528/2012 are satisfied. The purpose of that Regulation is to improve the free movement of biocidal products within the Union while ensuring a high level of protection of both human and animal health and the environment, in particular of vulnerable groups. Professional users are subject to high exposure to biocidal products over the long term and meet the definition of 'vulnerable groups' pursuant to Article 3(1)(ad) of Regulation (EU) No 528/2012. The Commission therefore considers that the proposed derogation from mutual recognition fulfils the condition referred to in Article 37(1)(c) of that Regulation.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

1. The derogation from mutual recognition proposed by France for the product referred to in paragraph 2 is justified on the grounds of the protection of health and life of humans, particularly of vulnerable groups, as referred to in Article 37(1)(c) of Regulation (EU) No 528/2012.

2. Paragraph 1 applies to the product identified by the following case number, as provided for by the Register for Biocidal Products:

BC-QC011565-51.

Article 2

This Decision is addressed to the Republic of France.

Done at Brussels, 10 May 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2017/811**of 10 May 2017****approving the amended plan submitted by Belgium for the approval of establishments for the purposes of intra-Union trade in poultry and hatching eggs pursuant to Council Directive 2009/158/EC***(notified under document C(2017) 2947)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 2009/158/EC of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs ⁽¹⁾, and in particular Article 3(2)(b) thereof,

Whereas:

- (1) Article 3(1) of Directive 2009/158/EC provides that Member States are to submit to the Commission a plan describing the national measures which they intend to implement to ensure compliance with the rules laid down in Annex II to that Directive for the approval of establishments for the purposes of intra-Union trade in poultry and hatching eggs.
- (2) The Belgian plan was last approved by Commission Decision 2004/835/EC ⁽²⁾.
- (3) The Belgian authorities have on 24 October 2016 submitted an amended plan and requested the approval of the amendments that take account of progress in methods for diagnosing diseases subject to the disease surveillance programmes laid down in Chapter III of Annex II to Directive 2009/158/EC.
- (4) That amended plan was examined by the Commission and it meets the criteria laid down in Directive 2009/158/EC and permits the objectives of that Directive to be attained, subject to its effective implementation and regular update by Belgium. It should therefore be approved.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

The amended plan describing the national measures to be implemented to ensure compliance with the rules set out in Annex II to Directive 2009/158/EC for the approval of establishments for the purposes of intra-Union trade in poultry and hatching eggs provided for in Article 3(1) of that Directive, submitted by Belgium to the Commission on 24 October 2016, is approved.

⁽¹⁾ OJ L 343, 22.12.2009, p. 74.

⁽²⁾ Commission Decision 2004/835/EC of 3 December 2004 approving plans for the approval of establishments for the purposes of intra-Community trade in poultry and hatching eggs (OJ L 360, 7.12.2004, p. 28).

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 10 May 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

CORRIGENDA**Corrigendum to Council Decision (CFSP) 2016/2360 of 28 November 2016 on the signing and conclusion of the Acquisition and Cross-Servicing Agreement between the European Union and the United States of America**

(Official Journal of the European Union L 350 of 22 December 2016)

On page 1, recital 2:

for: '(2) Such operations may require logistic support, and supplies and services for the ...',

read: '(2) Such operations may require logistic support, supplies and services for the ...';

on page 1, recital 3:

for: '(3) ... and be ready to provide logistic support, and supplies and services to units of the ...',

read: '(3) ... and be ready to provide logistic support, supplies and services to units of the ...'.

