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**ANTIDUMPING 31
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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING REGULATION terminating the interim review of the anti-dumping measures concerning imports of furfuraldehyde originating in the People's Republic of China and repealing those measures

COUNCIL IMPLEMENTING REGULATION(EU) No/2012

of

**terminating the interim review of the anti-dumping measures
concerning imports of furfuraldehyde originating in the People's Republic of China
and repealing those measures**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community¹ ('the basic Regulation'), and in particular Articles 9 and 11(3), (5) and (6) thereof,

Having regard to the proposal submitted by the European Commission ('Commission') after consulting the Advisory Committee,

¹ OJ L 343, 22.12.2009, p. 51.

Whereas:

A. PROCEDURE

1. Measures in force

- (1) In 1995, the Council imposed by Regulation (EC) No 95/95¹ a definitive anti-dumping duty in the form of a specific duty on imports of furfuraldehyde originating in the People's Republic of China ('PRC' or 'the country concerned') ('the original anti-dumping measures'). The specific duty rate was set at EUR 352 per tonne.
- (2) Following an interim review initiated in May 1997 upon the request of a Chinese exporter, the measures were maintained by Regulation (EC) No 2722/1999² for a further period of four years.
- (3) In April 2005, following an expiry review, the Council, by Regulation (EC) No 639/2005³ extended the measures for a further period of five years.
- (4) In May 2011, following a further expiry review, the Council, by Implementing Regulation (EU) No 453/2011⁴, extended the measures for a further period of five years. The specific duty rate was set at the same level as in the original anti-dumping measures, i.e. EUR 352 per tonne.

¹ OJ L 15, 21.1.1995, p. 11.

² OJ L 328, 22.12.1999, p. 1.

³ OJ L 107, 28.4.2005, p. 1.

⁴ OJ L 123, 12.5.2011, p. 1.

2. Initiation of an interim review

- (5) Recital (84) of Implementing Regulation (EU) No 453/2011 states that the Council considered it appropriate to assess if the level of the duty was still relevant, given that the specific duty had been established on the basis of the findings of the original investigation in 1995 and never revised. The Commission would therefore consider the *ex officio* initiation of an interim review pursuant to Article 11(3) of the basic Regulation.
- (6) Having determined that the Commission had at its disposal sufficient *prima facie* evidence for the initiation of an *ex officio* interim review, and after consulting the Advisory Committee, the Commission announced on 5 July 2011, in a notice published in the *Official Journal of the European Union*¹ ('the notice of initiation'), the initiation of an interim review pursuant to Article 11(3) of the basic Regulation.

3. Investigation

3.1. Investigation period

- (7) The investigation concerning dumping covered the period from 1 July 2010 to 30 June 2011 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2008 to the end of the review investigation period ('the period considered').

¹ OJ C 196, 5.7.2011, p. 9.

3.2. Parties concerned by this investigation

- (8) The Commission officially advised the Union industry, exporting producers in the country concerned, importers, users known to be concerned, and the authorities of the country concerned of the initiation of the interim review.
- (9) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

3.3. Sampling for exporting producers in the People's Republic of China

- (10) In view of the apparent large number of exporting producers in the PRC, it was considered appropriate to examine whether sampling should be used, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the exporting producers in the PRC were requested to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the notice of initiation. Given that no exporting producers came forward to cooperate, sampling was therefore not necessary.

3.4. Questionnaire replies and verifications

- (11) The Commission sent questionnaires to all parties known to be concerned. No other parties made themselves known within the deadlines set in the notice of initiation.
- (12) No replies to the questionnaires were received from the two Union producers, the Chinese exporting producers or from any importers or users. One producer in the analogue country, Argentina, replied to the questionnaire.
- (13) Given the lack of cooperation from parties, no verification visits were carried out.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (14) The product concerned by this review is the same as the one in the original investigation and the following reviews mentioned above, namely furfuraldehyde originating in the PRC, currently falling within CN code 2932 12 00 ('the product concerned').
Furfuraldehyde is also known as 2-furaldehyde or furfural.
- (15) Furfuraldehyde is a light yellow liquid with a characteristic pungent odour, which is obtained by processing different types of agricultural waste. Furfuraldehyde has two main applications: as a selective solvent in petroleum refining for the production of lubricating oils and as raw material for processing into furfuryl alcohol, which is used to make synthetic resin for foundry moulds.

2. Like product

- (16) As in the previous investigations, it was considered that the furfuraldehyde produced in the PRC and exported to the EU, the furfuraldehyde produced and sold on the domestic market of the analogue country Argentina and the furfuraldehyde manufactured and sold in the EU by the Union producers have the same basic physical and chemical characteristics, and the same basic uses. They were therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. General

- (17) No Chinese exporting producer cooperated with the investigation and they did not submit any information. Therefore, the findings on dumping set out below had to be based on facts available, in particular Eurostat data, official export statistics of the PRC and information submitted by the company in the analogue country, Argentina.

2. Analogue country

- (18) Pursuant to Article 2(7)(a) of the basic Regulation normal value was determined on the basis of the price or constructed value in an appropriate market economy third country ('the analogue country'), or the price from the analogue country to other countries, including the Union, or, where those are not possible, on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.
- (19) As in the original investigation, Argentina was proposed in the notice of initiation as an appropriate analogue country for the purposes of establishing normal value pursuant to Article 2(7)(a) of the basic Regulation. Following the publication of the notice of initiation, no comments concerning the proposed analogue country were received.
- (20) One producer of furfuraldehyde in Argentina cooperated with the investigation by replying to a questionnaire. The investigation showed that Argentina had a competitive market for furfuraldehyde with around 90 % of the market supplied by local production and the rest by imports from third countries. The production volume in Argentina constitutes more than 70 % of the volume of Chinese exports of the product concerned to the EU for inward processing. The Argentinean market was therefore deemed sufficiently representative for the determination of normal value for the PRC.
- (21) It is therefore concluded, as in the previous investigations, that Argentina constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

3. Dumping of imports during the RIP

3.1. Normal value

- (22) Normal value was established on the basis of the information received from the cooperating producer in the analogue country, i.e. on the basis of the price paid or payable on the domestic market of Argentina by unrelated customers, since these sales were found to be made in the ordinary course of trade.
- (23) As a result, normal value was established as the weighted average domestic sales price to unrelated customers by the cooperating producer in Argentina.
- (24) It was first established whether the total domestic sales of the like product to independent customers were representative in accordance with Article 2(2) of the basic Regulation, i.e. whether they accounted for 5 % or more of the total sales volume of the product concerned exported to the EU. The domestic sales of the cooperating producer in Argentina were sufficiently representative during the RIP.
- (25) The Commission subsequently examined whether the domestic sales of the like product could be regarded as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing for the like product sold on the Argentinean market the proportion of profitable domestic sales to independent customers during the RIP. Since all sales of the like product during the RIP were profitable, normal value was based on weighted average of all domestic sales.

3.2. Export price

- (26) As none of the Chinese exporters to the EU cooperated with the investigation, export prices were established on the basis of the facts available. The most appropriate basis was found to be the information provided by Eurostat data in relation to imports into the EU of the product concerned. Though most of these imports were made under the inward processing regime (Chinese furfuraldehyde was further processed into furfuryl alcohol for export), there was no reason to consider that they were not a reasonable basis for establishing export prices.

3.3. Comparison

- (27) For the purposes of ensuring a fair comparison between the normal value and the export price in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made with regard to certain differences in transport, credit costs and insurance, which affected prices and price comparability.

3.4. Dumping margin

- (28) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export prices at the same level of trade. This comparison showed a margin of dumping of 5,6 %.

4. Lasting nature of changed circumstances

- (29) Further to the analysis of the existence of dumping during the RIP, the likelihood of the continuation of dumping should measures be repealed was investigated. Given the fact that no exporting producer in the PRC cooperated in this investigation, the conclusions below rely on facts available in accordance with Article 18 of the basic Regulation.
- (30) In this respect the following elements were analysed: Chinese domestic demand and consumption, and the development of Chinese exports to the EU under the inward processing regime (IPR).
- (31) According to information available, since 2007 the domestic consumption of furfuraldehyde in the PRC has been increasing at a faster pace (an average forecasted annual growth for the time period 2007-2012 of approx. 9 %) than the Chinese production capacity of that product (approx. +6 %). The rise in Chinese domestic furfural consumption is mostly explained by the growing demand for furfuraldehyde's main downstream product, furfuryl alcohol. Chinese production of furfuryl alcohol has been drastically increasing since 1999, reflecting an emphasis on manufacturing higher-value furfural products and increasing demand for furan resins from the foundry industry.

- (32) Moreover, domestic demand for corn cob, the main raw material used by Chinese furfuraldehyde producers, has been increasing. With the rising global population, especially in the PRC and India, and the change from a grain based diet to a protein based diet, the global demand for corn is forecasted to grow at an increased rate. The PRC is the world's second largest corn consumer. In addition to the increase in industrial uses of corn, the Chinese demand for feed and livestock production is growing 3 % to 6 % annually. Whereas the PRC's corn consumption has been growing rapidly over the last few years, its production has been falling behind the demand. It is expected that during the time period 2011-2015 corn exports from the USA to the PRC will quintuple. It also has to be noted that Chinese furfural producers are facing more and more competition from xylose and xylitol producers, with whom they share the same feedstock (corn cobs).
- (33) Concerning Chinese exports to the EU during the RIP, it should be noted that virtually all furfuraldehyde from the country concerned is imported exclusively under inward processing arrangements (IPR). This practice started in 2000 with approx. 75 % of Chinese yearly quantities of furfuraldehyde being shipped into the Union without being subject to anti-dumping duty, with the aim of further processing them into furfuryl alcohol destined for export to third countries. Since 2001, free market imports from the country concerned have almost completely ceased.

- (34) The long-term changes in the domestic demand for furfural in the PRC and the tight supply-demand situation on the Chinese corn market, along with the structure of Chinese imports to the EU as explained in the previous recital, seem to have led to a change in the level of dumping practiced by the Chinese exporting producers. A comparison of Chinese export prices to the EU with the normal value of the product concerned, all duly adjusted, shows a decrease in the dumping margin during the RIP, as compared to the previous expiry review investigation.
- (35) In conclusion, the above analysis shows that the changes in the Chinese domestic demand and consumption of corn cobs and furfuraldehyde and consequently of prices, are of a lasting nature. Therefore it can be concluded that if anti-dumping measures are repealed, Chinese exports into the Union would not significantly increase.

D. UNION INDUSTRY

- (36) The Union industry ('UI') consists of two companies: Lenzing AG (Austria) and Tanin Sevnica kemicna industrija d.d (Slovenia), which together account for 100 % of Union production of the like product in the RIP. On this basis, the two Union producers constitute the Union industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation. Neither company replied to the questionnaires sent to them or fully cooperated in the investigation.

(37) Given the lack of cooperation from the Union industry, data for examining the situation of the Union market and injury caused to the Union industry by dumped imports from the PRC has been taken from facts available, including data extrapolated from information collected in the recent expiry review which covered the period from 1 January 2007 until 31 March 2010. Any sources given for the data in the tables below therefore relates to the period 2007-2009 unless specified. Nutrafur, the Spanish producer that lodged the original complaint in 1994 under the name of Furfural Espanol S.A., ceased production in October 2008. The production figures of Nutrafur in 2008 were included in the consumption in the Union market. For reasons of confidentiality data concerning the performance of the Union industry are given only in indexed form.

E. SITUATION ON THE UNION MARKET

1. Consumption in the Union market

(38) Union consumption of furfuraldehyde for 2008 and 2009 was established on the basis of the verified sales volumes of the Union industry on the Union market (including the sales of Nutrafur until October 2008 while it was still producing furfuraldehyde) plus imports under Inward Processing Regime (IPR) from the PRC and imports from other third countries into free circulation, based on data of the importer International Furan Chemicals BV ('IFC') verified during the last expiry review investigation and Eurostat. As Eurostat does not disclose the complete information for confidentiality reasons, Eurostat data were used only for the imports from other third countries except the PRC and the Dominican Republic, since IFC is the sole importer of furfuraldehyde from these sources.

- (39) Facts available were used for 2010 and the RIP due to the lack of cooperation from both the Union industry and the sole importer and the confidentiality of large amounts of data usually available from Eurostat. In the absence of any indications to the contrary, there was no reason to believe that there has been any marked shift in Union consumption since 2009 and it was considered that it remained at the same levels during 2010 and the RIP.
- (40) On this basis, during the period considered, the Union consumption decreased by 17 %, from 45 738 tonnes in 2008 to 38 000 tonnes during the RIP.

Table 1 – Union consumption

Year	2008	2009	2010	RIP
Tonnes	45 738	38 175	38 000	38 000
Index (2008=100)	100	83	83	83
Y/Y trend		-17	0	0

Source: verified questionnaire replies of the Union industry and IFC, Eurostat

2. Imports from the PRC

2.1. Volume, market share and prices

- (41) According to Chinese export statistics, Chinese imports were being made under IPR during the RIP. The Chinese IPR volume increased from 10 002 tonnes in 2008 to 13 975 tonnes in the RIP, i.e. by 40 %. Over the period considered the Chinese market share for IPR increased from 22 % to 37 %, i.e. by 15 percentage points.
- (42) The Chinese IPR price increased by 47 % from EUR 1014 per MT in 2008 to EUR 1488 in the RIP. It is noted that during the RIP prices of Chinese imports increased rapidly, reaching a high point of over 1700 EUR/MT.

Table 2 – Imports from the PRC

Year	2008	2009	2010	RIP
Tonnes	10 002	5 159	8 375	13 975
Index (2008=100)	100	52	84	140
Y/Y trend		-48	32	56
Market share	22 %	14 %	22 %	37 %
Price, EUR/tonne	1 014	690	1 362	1 488
Index (2008=100)	100	68	134	147

Source: Verified questionnaire response of IFC, Chinese export statistics

3. Import volumes and prices from other third countries

- (43) It should be noted that, as in the original investigation, imports from the Dominican Republic were entirely shipments from a parent company to its European subsidiary to produce furfuryl alcohol. Thus, the prices used in these transactions are transfer prices between related companies which may not reflect real market prices. Given the lack of cooperation from the importer concerned and the confidentiality of data in Eurostat, it has been assumed that imports and prices from the Dominican Republic remained constant during 2010 and the RIP.

Table 3 - Imports into the Union from the Dominican Republic

Year	2008	2009	2010	RIP
Tonnes	27 662	24 996	25 000	25 000
Index (2008=100)	100	90	90	90
Y/Y trend		-10	0	0
Market share	60 %	65 %	66 %	66 %
Price, EUR/tonne	982	582	582	582
Index (2008=100)	100	59	59	59

- (44) According to Eurostat, import volumes of furfuraldehyde into the Union from countries other than the PRC, together with their average prices, developed as follows:

Table 4 - Imports into the Union from other third countries

Year	2008	2009	2010	RIP
Tonnes	1 583	1 226	138	162
Index (2008=100)	100	77	9	10
Y/Y trend		-23	-69	2
Market share	3 %	3 %	1 %	1 %
Price, EUR/tonne	997	632	1 473	1 685
Index (2008=100)	100	63	148	169

4. Export volumes and prices from the EU to other third countries

- (45) During the period considered data was only available for 2008 and 2009. No reliable statistical data was available to assess the evolution of the dataset into 2010 and the RIP. In the absence of cooperation from the Union industry facts available were used and the assumption made that exports from the EU would continue at the same volume levels as 2009 with a price increase in line with that found on the Union market.

Table 5 – Export volumes and prices of the Union Industry to other third countries

Year	2008	2009	2010	RIP
Quantities - Index (2008=100)	100	155	155	155
Y/Y trend		55	0	0
Prices - Index (2008=100)	100	77	134	147
Y/Y trend		-23	57	13

5. Economic situation of the Union industry

- (46) The economic situation of the Union industry, i.e. the two companies Lenzing and Tanin, is analysed below using data collected during the expiry review plus facts available for the current review investigation period (RIP).

5.1. Production

- (47) The total production by the Union industry of the like product increased by 5 % until 2009. In the absence of other data it was assumed that production remained stable in 2010 and the RIP.

Table 6 - Union production

Year	2008	2009	2010	RIP
Index (2008=100)	100	105	105	105
Y/Y trend		5	0	0

Source: Verified questionnaire replies of the Union producers

5.2. Production capacity and capacity utilisation

- (48) The total production capacity of the Union industry remained the same in 2008 and 2009. Given the lack of cooperation from the Union industry it was assumed that capacity and utilisation remained the same in 2010 and the RIP.

Table 7 - Union capacity

Year	2008	2009	2010	RIP
Index (2008=100)	100	100	100	100
Capacity utilisation	92 %	96 %	96 %	96 %

Source: Verified questionnaire replies of the Union producers

5.3. Level of stocks

- (49) Given the lack of cooperation of the Union industry it was assumed that stock levels remained the same as they were at the end of 2009.

Table 8 – Stocks

Year	2008	2009	2010	RIP
Index (2008=100)	100	56	56	56
Y/Y trend		-44	0	0

Source: Verified questionnaire replies of the Union producers

5.4. Sales volume and market share

- (50) The Union industry's sales volume to unrelated customers in the Union market increased by 12 % from 2008 to 2009. In the absence of data from the Union industry it was assumed that volume of sales did not increase in 2010 or the RIP.

Table 9 – Sales volume and Union market share

Year	2008	2009	2010	RIP
Index (2008=100)	100	112	112	112
Market share ranged	10-20 %	14-24 %	14-24 %	14-24 %

Source: Verified questionnaire replies of the Union producers

5.5. Average sales prices

- (51) During the period considered the average sales prices charged by the Union industry on the Union market increased substantially by 36 %. This was caused by a large price increase during 2010 and the RIP.

Table 10 – Average sales price in the EU

Year	2008	2009	2010	RIP
Index (2008=100)	100	89	108	136
Y/Y trend		-11	19	28

Source: Verified questionnaire replies of the Union producers plus facts made available to the Commission

5.6. Average cost of production

- (52) As no cost of production data was made available by the Union industry for 2010 and the RIP data from the previous expiry review was increased by 6 % to take into account inflation during the period.

Table 11 – Average cost of production

Year	2008	2009	2010	RIP
Index (2008=100)	100	100	102	106
Y/Y trend		0	2	4

Source: Verified questionnaire replies of the Union producers

5.7. Profitability and cash flow

- (53) Calculation of the profits made by the Union industry, based on the price and cost data above, showed a significant increase during the period considered due to the price increases on the Union market combined with no evidence of increase in production costs beyond inflation. Cash flow is considered, in the absence of any other data, to have followed a trend similar to profitability.

Table 12 – Profitability and cash flow

Year	2008	2009	2010	RIP
Profitability Index (2008=100)	100	96	153	297
Y/Y trend		-4	57	144
Cash Flow - Index (2008=100)	100	34	69	69
Y/Y trend		+66	36	0

Source: Verified questionnaire replies of the Union producers

5.8. Investments, return on investments and ability to raise capital

- (54) In the absence of data from the Union industry, given the increases in prices in 2010 and the RIP it has been assumed that there was a return to the level of investment as that seen in 2007. Return on investment has been assumed to follow the same basic trend as profitability shown in Table 12.

Table 13 – Investments and return on investments

Year	2008	2009	2010	RIP
Investments index (2008=100)	100	3	163	163
Y/Y trend		-97	160	0
Return on investments index (2008=100)	100	-4	100	200
Y/Y trend		-104	96	100

Source: Verified questionnaire replies of the Union producers

5.9. Employment and productivity

- (55) Given the lack of information from the Union industry for 2010 and the RIP it has been considered that employment and productivity remained constant during the period considered.

Table 14 – Employment and productivity

Year	2008	2009	2010	RIP
Employment - Index	100	100	100	100
Productivity (tonnes/employees) - Index	100	100	100	100
Labour costs - Index	100	100	100	100

Source: Verified questionnaire replies of the Union producers

5.10. Magnitude of dumping margin

- (56) Despite the lack of cooperation from the Chinese exporting producers, the volume and value of imports was analysed from Eurostat together with an estimation of market share. The significant price increase in 2010 and 2011 has dramatically reduced the margin of dumping from the PRC since the expiry review investigation period.

5.11. Recovery from the effects of dumped imports

- (57) As shown by the positive evolution of most of the indicators listed above, during the period considered the financial situation of the Union industry has fully recovered from the injurious effect of the significantly dumped imports that were identified by previous investigations originating in the PRC.

6. Conclusion on the economic situation of the Union industry

- (58) The measures against the PRC have had a positive impact on the economic situation of the Union industry, since most of the injury indicators showed a positive development: production, sales volume and sales value increased between 2008 and the RIP. However given the substantial increase in prices on the Union market, the Union industry is now achieving profits far in excess of the target profit, set at the original investigation as being 5 %, to ensure its development.
- (59) Given the significant increase in prices on the Union market during the RIP, with no evidence of a parallel increase in costs, it is concluded that the Union industry has not suffered material injury within the meaning of Article 3(5).

7. Conclusion on the lasting nature of these changed circumstances

- (60) Consideration has been given as to whether the increase in prices on the Union market is a lasting change in circumstances from the findings of the previous expiry review investigation. The data available shows prices on the Union market recovering strongly, matching the levels of 2008 and then overtaking these amounts whereas in the expiry review investigation prices were falling. Moreover, unlike in the expiry review, no evidence of undercutting was found. In the expiry review, profitability was on a downward trend but data after the end of that investigation shows profitability recovering strongly, matching the levels of 2008 and then exceeding them.
- (61) It was analysed whether, however, the change in prices since the end of the expiry review investigation period could be based on a particularly poor harvest season in the PRC, as furfuraldehyde is produced there from agricultural waste. However the price has not fallen significantly since the harvest season at the end of 2010 and therefore this was discounted. It appeared that there had been an increase in the prices of imports originating in the PRC caused by the long-term growth in the domestic demand for furfuraldehyde and the rising raw material costs in the country concerned. Due to the lack of cooperation from the Chinese exporting producers, this could not be verified, but the Commission received no evidence that this was not the case.

(62) Given the evidence available to the Commission referred to above, and the lack of information showing that the price increases referred to have been temporary, it has been concluded that this change is of a lasting nature.

F. TERMINATION OF THE ANTI-DUMPING PROCEEDING AND REPEAL OF THE ANTIDUMPING MEASURES IN FORCE

(63) In light of the above, it is considered that the present anti-dumping review should be terminated and the anti-dumping measures in force be repealed.

(64) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be terminated. They were also granted a period within which they could make representations subsequent to this disclosure. No comments were received.

(65) It follows from the above that the present anti-dumping review should be terminated and the anti-dumping measures imposed by Implementing Regulation (EU) No 453/2011 on imports of furfuraldehyde originating in the PRC should be terminated and the existing duty repealed,

HAS ADOPTED THIS REGULATION:

Article 1

The interim review of the anti-dumping duties applicable to imports of 2-furaldehyde (also known as furfuraldehyde or furfural) currently falling within CN code 2932 12 00 originating in the People's Republic of China is hereby terminated.

Article 2

Implementing Regulation (EU) No 453/2011 is hereby repealed.

Article 3

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

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

Done at Brussels,

For the Council

The President
