II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 453/2011

of 4 May 2011

imposing a definitive anti-dumping duty on imports of furfuraldehyde originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

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 Community [1] (the basic Regulation), and in particular Article 11(2) and (5) and Article 9(4) thereof,

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) Following an anti-dumping investigation (the original investigation), the Council imposed by Regulation (EC) No 95/95 [2] of 21 January 1995 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) (the definitive 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 2722/1999 [3] for a further period of 4 years.

(3) In April 2005, following an expiry review, the Council by Regulation (EC) No 639/2005 [4] extended the measures for a further period of 5 years.

2. Request for an expiry review

(4) Following the publication of a notice of impending expiry [5] of the definitive anti-dumping measures in force, the Commission received on 28 January 2010 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation. The request was lodged by two Union producers, Lenzing AG and Tanin Sevnica kemična industrija d.d. (the applicants), representing a major proportion of the Union production of furfuraldehyde, in this case more than 50 %.

(5) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and recurrence of injury to the Union industry (the 'UI').

3. Initiation of an expiry review

(6) Having determined that sufficient evidence existed for the initiation of an expiry review, and after consulting the Advisory Committee, the Commission announced on 27 April 2010, by a notice published in the *Official Journal of the European Union* [6] (the Notice of initiation), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 15, 21.1.1995, p. 11.
[3] OJ L 328, 22.12.1999, p. 1.
[4] OJ L 107, 28.4.2005, p. 1.
[5] OJ C 16, 22.1.2010, p. 40.
[6] OJ C 107, 27.4.2010, p. 10.

4. **Investigation**

4.1. *Investigation period*

(7) The investigation concerning the likelihood of a continuation of dumping covered the period from 1 April 2009 to 31 March 2010 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a recurrence of injury covered the period from 1 January 2007 to the end of the review investigation period (the period considered).

4.2. *Parties concerned by this investigation*

(8) The Commission officially advised the applicants, exporting producers in the country concerned, importers, users known to be concerned, and the representatives of the country concerned of the initiation of the expiry 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. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

4.3. *Sampling*

(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 above parties 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 not necessary.

4.4. *Verification of information received*

(11) The Commission sent questionnaires to all parties known to be concerned and to those who made themselves known within the deadlines set in the Notice of initiation.

(12) Replies to the questionnaires were received from the two Union producers, one importer/user and one producer in the analogue country, Argentina. None of the Chinese exporting producers cooperated in the current investigation.

(13) The Commission sought and verified all the information it deemed necessary for a determination of the likelihood of continuation or recurrence of dumping and resulting injury and of the Union interest. Verification visits were carried out at the premises of the following interested parties:

(a) *Union producers*

— Lenzing AG, (Lenzing), Austria

— Tanin Sevnica kemična industrija d.d (Tanin), Slovenia

(b) *Unrelated importer/user*

— International Furan Chemicals BV (IFC), Rotterdam

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 in recitals 2 and 3, 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, this investigation confirmed that the furfuraldehyde produced in the PRC and exported to the European Union, the furfuraldehyde produced and sold on the domestic market of the analogue country Argentina and the furfuraldehyde manufactured and sold in the Union 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. **LIKELIHOOD OF CONTINUATION OF DUMPING**

(17) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.

1. **General**

(18) Of the 34 known Chinese exporting producers contacted at the initiation, none cooperated with the investigation and no information was submitted by any of them. Therefore, the findings on the likelihood of continuation or recurrence of dumping set out below had to be based on facts available, in particular the information submitted by the cooperating importer/industrial user, Eurostat data, official export statistics of the PRC and information in the review request.

2. **Analogue country**

(19) Since the PRC is an economy in transition, in accordance with Article 2(7)(a) of the basic Regulation normal value had to be 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.

(20) 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. Following the publication of the Notice of initiation, no comments concerning the proposed analogue country were received.

(21) 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 Union for inward processing. The Argentinean market was therefore deemed sufficiently representative for the determination of normal value for the PRC.

(22) It is therefore concluded, as in the original investigation, 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*

(23) Pursuant to Article 2(7)(a) of the basic Regulation, 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.

(24) As a result, normal value was established as the weighted average domestic sales price to unrelated customers by the cooperating producer in Argentina.

(25) 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 Union. The domestic sales of the cooperating producer in Argentina were considered sufficiently representative during the RIP.

(26) 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*

(27) As none of the Chinese exporters to the Union 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 the cooperating importer and the Eurostat data in relation to imports into the Union of the product concerned. Though most of these imports were made under inward processing regime (IPR) (Chinese furfuraldehyde was further processed into furfuryl alcohol for export), there was no reason to believe that they were not a reasonable basis for establishing export prices.

3.3. *Comparison*

(28) For the purposes of ensuring a fair comparison between the normal value and the export price, and 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 and insurance, which affected prices and price comparability.

3.4. *Dumping margin*

(29) 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 the existence of significant dumping.

4. **Development of imports should measures be repealed**

(30) 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, namely the information provided by the cooperating importer, Eurostat data, official export statistics of the PRC and the review request.

(31) In this respect the following elements were analysed: development of imports into the Union from the PRC under IPR, development of Chinese exports to third countries and the spare capacity of the Chinese producers.

4.1. *Development of imports from the PRC*

(32) According to the Chinese official export statistics the total worldwide exports from the PRC of the product concerned increased by 117 % during the period considered. This increase was mainly absorbed by the US and other third country markets.

(33) Concerning the exports to the Union, according to Eurostat and verified import data, it should be noted that during the RIP 99,9 % of all the imports from the PRC of the product concerned into the Union were made for inward processing, the remaining 0,1 % for free circulation. There were no imports for free circulation in 2007 and 2008. For completeness of data, the imports for free circulation have been taken into account in the total import volume, however, a detailed analysis of the development of prices of these imports was considered immaterial due to the negligible volumes involved.

(34) The import volume from PRC under the IPR and free circulation decreased by 67 % from 2007 to the RIP, which coincided with shrinking consumption on the Union market by 24 % as set out in recital 45 below. The Chinese furfuraldehyde imported under IPR was further processed into furfuryl alcohol which was then exported. There is no information available as to how the imports for free circulation have been used in the Union, however, it can be reasonably assumed that, should the measures be repealed, at least part of the current imports under IPR could be imported for free circulation as such or as the final downstream product (furfuryl alcohol) sold on the Union market.

(35) The price of Chinese exports has varied between markets in the period from 2007 to the RIP. While there has been a sharp decrease in the export price to the Union (by 11 %) in this period, the other export markets have experienced an increase of approximately 10 %. It is, however, notable that the prices for the US market during the RIP have been at roughly the same level as to the Union, while, according to the Chinese export statistics, the exports to other markets have been by 19 % per tonne more expensive. Considering that the product concerned is very homogeneous, such price differences can only be explained by the deliberate pricing strategy of Chinese exporters who obtain higher prices and profits on markets with less competition than in markets such as the Union and the US where lower prices are practised. Considering that exports to the Union and the US constituted 46 % of total Chinese exports, this leads to a conclusion that this price discrimination could be maintained, if duties were to lapse, in order to sustain dumping at least on the Union market.

4.2. *Spare capacity of the exporters*

(36) Since little public information is available about the Chinese industry of furfuraldehyde, the following conclusions rely mainly on the information contained in the review request.

(37) According to the request for the expiry review, the Chinese production of furfuraldehyde has been steadily increasing since 1999, and in 2009 the production volume reached around 320 000 tonnes. The Chinese capacity utilisation rate is said to be at around 94 % which means that there is idle capacity of around 20 000 tonnes per year in the PRC, i.e. approximately half of total consumption in the Union. More than 200 production plants of furfuraldehyde are said to currently operate in the PRC, of which more and more engage in export activities.

(38) Based on the above, it can be concluded that, if the measures were repealed, it can be expected that the exports of the product concerned from the PRC would enter the Union market outside the IPR in significant quantities and most likely would continue being dumped.

5. **Conclusion on the likelihood of a continuation of dumping**

(39) Considering the large production capacity available in the PRC, the ability of Chinese producers to increase rapidly the production volumes and direct them for export, as well as the pricing of those exports, it is reasonable to assume that a repeal of the measures would result in a resumption of exports from the PRC to the Union outside the IPR.

(40) The current export prices under IPR do not bear the anti-dumping duty. It is considered therefore that such prices are also indicative as to future price levels, should measures be repealed. In this regard, it was found that Chinese export prices under IPR were dumped and were undercutting the Union producers' prices by 11 % in the RIP, as set out in recital 69 below.

(41) In view of the findings described above, it can be concluded that the exports from the PRC are still being dumped and that there is a likelihood of continuation of dumping on the Union market if the current anti-dumping measures were to lapse.

D. **DEFINITION OF THE UNION INDUSTRY**

(42) The UI consists of two companies: Lenzing AG (Austria) and Tanin Sevnica kemična industrija d.d (Slovenia), which together account for 100 % of the Union's production of the product concerned in the RIP. Both companies replied to the questionnaires and fully cooperated in the investigation. 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. For reasons of confidentiality data concerning the performance of the UI are given only in indexed form.

(43) Compared to the original investigation, the UI has changed: significantly Furfural Español S.A., now called Nutrafur, the Spanish producer that lodged the original complaint in 1994, ceased production in October 2008. Nutrafur, which supports the present request for review, has not cooperated in this proceeding. However, Nutrafur is still active in the market, as a trader buying the product concerned from its former Union competitors. The production figures of Nutrafur in 2007 and 2008 mentioned in the request were included in the consumption in the Union market.

E. **SITUATION ON THE UNION MARKET**

1. **Consumption in the Union market**

(44) Union consumption of furfuraldehyde was established on the basis of the sales volumes of the UI on the Union market (including the sales of Nutrafur while it was still producing furfuraldehyde) plus imports under IPR from the PRC and imports from other third countries into free circulation, based on verified data of the importer International Furan Chemicals BV (IFC) 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 PRC and the Dominican Republic, since IFC is the sole importer of furfuraldehyde from these sources.

(45) On this basis, during the period considered, the Union consumption decreased by 24 %, from 48 534 tonnes in 2007 to 36 725 tonnes, during the RIP.

Table 1 — Union consumption

Year	2007	2008	2009	RIP
Tonnes	48 534	45 738	38 175	36 725
Index (2007=100)	100	94	79	76
Y/Y trend		– 6	– 15	– 3

Source: verified questionnaire replies of the UI and IFC, review request and Eurostat

2. **Imports from the PRC**

2.1. *Volume, market share and prices*

(46) According to Chinese export statistics, during the RIP there were only insignificant (2,5 tonnes) Chinese imports for free circulation, most of the Chinese imports being made under IPR. The Chinese IPR volume decreased from 8 264 tonnes in 2007 to 2 749 tonnes in the RIP, i.e. by 67 %. In 2008 Chinese IPR imports reached a peak of approximately 10 000 tonnes which decreased in the following years. Over the period considered the Chinese market share for IPR decreased from 17 % to 8 %, i.e. by 9 percentage points.

(47) The Chinese IPR price decreased by 12 % from EUR 774 in 2007 to EUR 685 in the RIP.

Table 2 — Imports from the PRC

Year	2007	2008	2009	RIP
Tonnes	8 264	10 002	5 159	2 749
Index (2007=100)	100	121	62	33
Y/Y trend		21	– 59	– 29
Market share	17 %	22 %	14 %	7 %
Price, EUR/tonne	774	1 014	690	685
Index (2007=100)	100	131	89	88

Source: Verified questionnaire response of IFC

3. Import volumes and prices from other third countries

(48) It should be noted that, as in the original investigation, the 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 and did not reflect real market prices. 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 3 — Imports into the Union from the Dominican Republic

Year	2007	2008	2009	RIP
Tonnes	32 003	27 662	24 996	25 959
Index (2007=100)	100	86	78	81
Y/Y trend		– 14	– 8	3
Market share	66 %	60 %	65 %	71 %
Price, EUR/tonne	809	982	582	670
Index (2007=100)	100	121	72	83

Table 4 — Imports into the Union from other third countries

Year	2007	2008	2009	RIP
Tonnes	1 687	1 583	1 226	1 158
Index (2007=100)	100	94	73	69
Y/Y trend		– 6	– 21	– 4
Market share	3 %	3 %	3 %	3 %
Price, EUR/tonne	800	997	632	621
Index (2007=100)	100	125	79	78

(49) During the period considered the import volumes of furfuraldehyde from the Dominican Republic and all other third countries decreased significantly by 19 % and 31 % respectively. However the decrease of imports from the Dominican Republic still allowed for an increase in the market share from 66 % to 71 %. However all these imports were incorporated in the production of furfuryl alcohol by the European subsidiary of the producer in the Dominican Republic. Therefore, the prices of these transactions were transfer prices between related companies and may not reflect real market prices.

3.1. *Export volumes and prices from the PRC to other third countries*

(50) During the period considered export volumes increased by 105 % (equivalent to approximately 9 % of total Union sales in the RIP). It is noted that export sales by the UI to other third countries were made at low prices during the RIP. This can be explained by the competition in large quantities at low prices with Chinese furfuraldehyde in other third countries.

Table 5 — Export volumes and prices of the UI to other third countries

Year	2007	2008	2009	RIP
Quantities — Index (2007=100)	100	136	211	205
Y/Y trend		36	75	– 6
Prices — Index (2007=100)	100	114	88	82
Y/Y trend		14	– 26	– 6

4. Economic situation of the UI

(51) The economic situation of the UI, i.e. the two companies Lenzing and Tanin is analysed below.

4.1. *Production*

(52) The total production by the UI of the product concerned increased by 14 % during the period considered.

Table 6 — Union production

Year	2007	2008	2009	RIP
Index (2007=100)	100	109	114	114
Y/Y trend		9	5	0

Source: Verified questionnaire replies of the Union producers

4.2. *Production capacity and capacity utilisation*

(53) The total production capacity of the UI remained the same during the period considered. The capacity utilisation of the UI increased by 12 percentage points from 85 % to 97 % meaning that production was almost at full capacity.

Table 7 — Union capacity

Year	2007	2008	2009	RIP
Index (2007=100)	100	100	100	100
Capacity utilisation	85 %	92 %	96 %	97 %

Source: Verified questionnaire replies of the Union producers

4.3. *Level of stocks*

(54) The table below shows that the level of stocks of the UI increased by 26 % during the period considered. The increase of stocks was particularly significant between 2007 and 2008, when stocks increased by 193 %.

Table 8 — Stocks

Year	2007	2008	2009	RIP
Index (2007=100)	100	293	165	126
Y/Y trend		193	– 128	– 40

Source: Verified questionnaire replies of the Union producers

4.4. *Sales volume and market share*

(55) The UI's sales volume to unrelated customers in the Union market increased by 13 %, during the RIP. Following the increase in sales, the market share of the UI increased by 5 percentage points during the period considered.

Table 9 — Sales volume and Union market share

Year	2007	2008	2009	RIP
Index (2007=100)	100	100	112	113
Market share ranged	10-20 %	10-20 %	14-24 %	15-25 %

Source: Verified questionnaire replies of the Union producers

4.5. *Average sales prices*

(56) During the period considered the average sales prices charged by the UI on the Union market decreased by 1 %. In 2008 the average sales price reached a peak with an increase of 11 %, but then decreased rapidly in the following year. The slight decrease in the sales prices must be seen in view of the increase of 5 % in the unit cost of production, that the UI was not able to take into account.

Table 10 — Average sales price in the Union

Year	2007	2008	2009	RIP
Index (2007=100)	100	111	98	99
Y/Y trend		11	– 13	1

Source: Verified questionnaire replies of the Union producers

4.6. *Average cost of production*

(57) During the period considered the average cost of production (COP) increased by 5 % mainly due to the increase in employment and therefore an increase in the total cost of labour.

Table 11 — Average cost of production

Year	2007	2008	2009	RIP
Index (2007=100)	100	105	105	105
Y/Y trend		5	0	0

Source: Verified questionnaire replies of the Union producers

4.7. *Profitability and cash flow*

(58) The profits made by the UI decreased significantly during the period considered together with the cash flow, which decreased by 56 %. This was due to pressure on sales prices, despite the increase both in production and in sales.

Table 12 — Profitability and cash flow

Year	2007	2008	2009	RIP
Profitability Index (2007=100)	100	175	– 7	– 4
Y/Y trend		75	– 182	3
Cash Flow — Index (2007=100)	100	144	49	44
Y/Y trend		44	– 95	– 5

Source: Verified questionnaire replies of the Union producers

4.8. *Investments, return on investments and ability to raise capital*

(59) Investments dropped by 95 % between 2007 and the RIP. Return on investments, expressed as profits/losses of the product concerned in relation to the net book value of investments, decreased considerably during the period considered, following the trend of investments. As a result of the deterioration in profitability and cash flow, the applicants' ability to raise capital has worsened significantly during the period under consideration. This worsening can also be clearly seen in the applicants' investments, which fell by 95 % during the period considered.

Table 13 — Investments and return on investments

Year	2007	2008	2009	RIP
Investments index (2007=100)	100	61	2	5
Y/Y trend		– 39	– 59	3
Return on investments index (2007=100)	100	196	– 7	– 4
Y/Y trend		96	– 203	3

Source: Verified questionnaire replies of the Union producers

4.9. *Employment and productivity*

(60) The employment level within the UI during the period considered increased by 8 %. Productivity, measured as output in tonnes per person employed, increased by 6 %. However, the total labour costs increased by 16 % during the period considered.

Table 14 — Employment and productivity

Year	2007	2008	2009	RIP
Employment — Index	100	109	109	108
Productivity (tonnes/employees) — Index	100	100	105	106
Labour costs — Index	100	114	115	116

Source: Verified questionnaire replies of the Union producers

4.10. *Magnitude of dumping margin*

(61) Given the volume, the market share and the prices of the dumped imports from the PRC, the impact on the UI of the actual margins of dumping cannot be considered to be negligible.

4.11. *Recovery from the effects of dumping*

(62) As shown by the positive evolution of most of the indicators listed above, during the period considered the financial situation of the UI has partially recovered from the injurious effect of dumped imports originating in the PRC.

4.12. *Growth*

(63) While Union consumption decreased by 24 % during the period considered, the UI's production, sales volume and market share increased over the same period. At the same time, the volume and market share of imports from the PRC decreased. However, the UI could benefit from the measures to a certain extent as the Chinese pressure on the sales prices did not allow them to have profits nor to reach their target profit.

5. **Conclusion on the economic situation of the UI**

(64) Furfuraldehyde from the Dominican Republic is not available on the free Union market. Therefore, no indication was found that these imports would have contributed to the precarious situation of the UI. With regard to the imports of other third countries their volumes decreased substantially to such a level that, even if made at very low prices, their effect cannot be considered to be significant.

(65) The measures against the PRC have had a positive impact on the economic situation of the UI, since most of the injury indicators showed a positive development: production, sales volume and sales value increased. Despite the decreasing consumption, the UI managed to increase its market share. Profitability, however, decreased substantially during the RIP. The UI has not been in a position to achieve the target profit, set at the original investigation as being 5 % to ensure its development. In that sense, it is concluded that the UI has suffered material injury within the meaning of Article 3(5) of the basic Regulation and that its financial situation remains vulnerable.

F. **LIKELIHOOD OF RECURRENCE OF INJURY**

(66) Recitals 39 and 40 above concluded that the expiry of the measures would be likely to lead to a significant increase of dumped exports from the PRC to the Union.

(67) As mentioned above, the Chinese producers have the potential to redirect large export volumes to the Union market if measures were repealed. According to the review request, the Chinese production capacity reached 320 000 tonnes in 2009 with a spare capacity of at least 20 000 tonnes. Moreover, it seems that other export markets, such as Japan, Thailand and the USA, could not absorb that spare capacity, which therefore would most probably be directed to the Union market.

(68) With regard to prices, the Chinese export statistics show that the price of the product concerned to the USA was similar to that of the exports to the Union under IPR. To other export markets Chinese prices were higher.

(69) However given that the Chinese prices undercut those of the UI by 11 %, if measures were allowed to lapse, it is likely that the Chinese exporters will continue their practices in order to regain the lost market share. Such behaviour coupled with their ability to deliver significant quantities of the product concerned to the Union market would lead to a very negative impact on the UI and in particular on its profitability.

(70) On the basis of the above, it is concluded that a repeal of measures would in all likelihood lead to a recurrence of injury resulting from the dumped imports from the PRC.

G. **UNION INTEREST**

1. **Preliminary remark**

(71) In accordance with Article 21 of the basic Regulation, it was examined whether the maintenance of the existing anti-dumping measures would be against the interest of the Union as a whole.

(72) The determination of Union interest was based on an appreciation of all the various interests involved, i.e. those of the UI, the importers/traders as well as the users and suppliers of the product concerned.

(73) In the previous investigations the adoption of measures was considered not to be against the interest of the Union. Furthermore, the present investigation is an expiry review, thus analysing a situation in which anti-dumping measures are in place.

(74) On this basis it was examined whether, despite the conclusion on the likelihood of continuation of dumping and recurrence of injury, there are compelling reasons which would lead to the conclusion that it is not in the Union interest to maintain measures in this particular case.

2. **Interest of the UI**

(75) The UI has proven to be a viable industry, able to adapt to changing conditions on the market. This was confirmed in particular by the positive development of production and sales in a context of decreasing consumption in the Union. However, due to the enormous pressure on the sales prices, profitability could not follow the same positive trend.

(76) Given the existing spare capacity for furfuraldehyde in the PRC, combined with the fact that other export markets (such as Japan, Thailand and the USA) cannot absorb that spare capacity, if the measures were allowed to lapse, the Chinese exporters would in all likelihood try to regain their lost market share by continuing their dumping behaviour in the Union market.

(77) Therefore, without the continuation of anti-dumping measures, the situation of the UI will in all likelihood severely deteriorate due to low-priced dumped Chinese exports as explained in recitals 65 to 68.

3. **Interest of importers**

(78) Only one importer in the Union cooperated in the proceeding: IFC, a company located in the Netherlands and owned by a producer of furfuraldehyde in the Dominican Republic. IFC, is the only active importer of furfuraldehyde in the Union, a few other companies only import the product concerned occasionally. IFC is the major player in the Union market of furfuraldehyde (and of furfuryl alcohol) since it represents around 80 % of the consumption in the Union. IFC imports from the Dominican Republic, from the PRC under IPR and from other third countries. Additionally IFC is the main customer of the UI buying approximately 32 % of their total sales. The furfuraldehyde purchased is then further processed into furfuryl alcohol by TFC, IFC's related company in Geel, Belgium.

(79) This importer is fairly neutral regarding the proceeding as on the one hand it would like to have access to Chinese furfuraldehyde without any restrictions and the burden of completing the customs requirements for the IPR, and on the other hand it would want the UI to be maintained in order to source the product concerned at short notice. Moreover the continuation of measures removes competition with the imports from its parent producer in the Dominican Republic and consolidates the group's stronghold on both the furfuraldehyde and furfuryl alcohol markets (including IPR) in the Union.

4. **Interest of users**

(80) The Commission sent out questionnaires to 27 industrial users of furfuraldehyde. Only three users cooperated in the proceeding however they did not source furfuradehyde in the PRC but bought it directly from the UI. For these users the importance of furfuraldehyde in their business, oil refining or the lube oils industry, is negligible. Therefore they do not feel particularly affected by the anti-dumping measures.

5. **Conclusion on Union interest**

(81) Taking into account the above, it is concluded that there are no compelling reasons against the maintenance of the current anti-dumping measures.

H. **ANTI-DUMPING MEASURES**

(82) 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 maintained. They were also granted a period within which they could make representations subsequent to this disclosure. Relevant comments submitted were analysed but have not led to the alteration of the essential facts and considerations on the basis of which it was decided to maintain the anti-dumping measures.

(83) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures imposed by Regulation (EC) No 639/2005 on imports of furfuraldehyde originating in the PRC should be maintained. These measures consist of a specific duty.

(84) However, given that this specific duty was established on the basis of the findings of the original investigation in 1995 and never revised, it has been considered appropriate to assess if the level of the duty is still relevant. In that respect, the Commission will give consideration to initiate *ex officio* an interim review pursuant to Article 11(3) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on 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.

2. The amount of duty applicable is EUR 352 per tonne.

3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [1], the amount of the anti-dumping duty, calculated on the basis of paragraph 2 of this Article, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

Article 2

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

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

Done at Brussels, 4 May 2011.

For the Council
The President
MARTONYI J.

[1] OJ L 253, 11.10.1993, p. 1.