

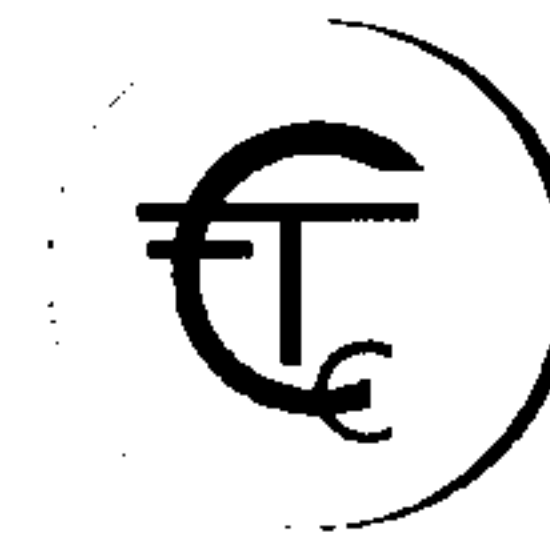


**ΚΥΠΡΙΑΚΗ ΔΗΜΟΚΡΑΤΙΑ  
ΥΠΟΥΡΓΕΙΟ ΟΙΚΟΝΟΜΙΚΩΝ**

Φακ. : 04.02.023.006.002.001  
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Φαξ. : 22605009

**Εγκύκλιος ΕΕ – «ΑΝΤ» (249)**

Όλο το Τελωνειακό Προσωπικό



**ΤΜΗΜΑ ΤΕΛΩΝΕΙΩΝ  
1440 ΛΕΥΚΩΣΙΑ**

22 Φεβρουαρίου 2013

**Εκ νέου επιβολή οριστικού δασμού αντιντάμπινγκ στις εισαγωγές ορισμένων  
παρασκευασμένων ή διατηρημένων εσπεριδοειδών, καταγωγής Λαϊκής  
Δημοκρατίας της Κίνας. Κανονισμός (ΕΕ) αριθ. 158/2013.**

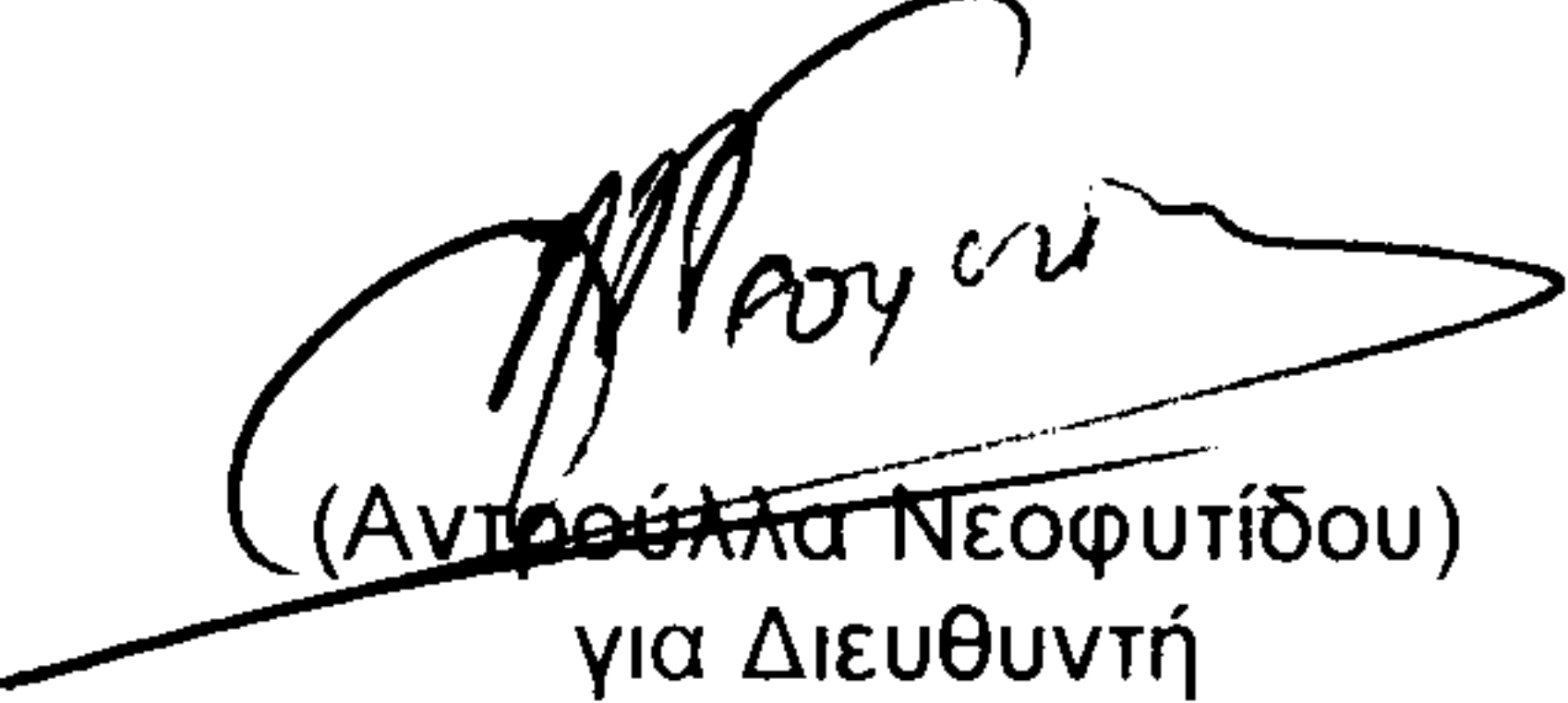
Πληροφορείστε ότι έχει δημοσιευτεί στην Επίσημη Εφημερίδα της Ευρωπαϊκής Ένωσης L49 ημερομηνίας 22 Φεβρουαρίου 2013, ο εκτελεστικός κανονισμός (ΕΕ) αριθμ. 158/2013 του Συμβουλίου με τον οποίο επιβάλλεται εκ νέου οριστικός δασμός αντιντάμπινγκ στις εισαγωγές παρασκευασμένων ή διατηρημένων μανταρινιών, κλημεντίνων, wilkings και άλλων παρόμοιων υβριδίων εσπεριδοειδών, χωρίς προσθήκη αλκοόλης, με ή χωρίς προσθήκη ζάχαρης ή άλλης γλυκαντικής ύλης, καταγωγής Λαϊκής Δημοκρατίας της Κίνας.

Τα προϊόντα υπάγονται επί του παρόντος στους κωδικούς Taric 2008309061, 2008309063, 2008309065, 2008309067 και 2008309069.

Στην παράγραφο 2 του άρθρου 1 του κανονισμού φαίνονται οι ατομικοί συντελεστές που εφαρμόζονται για τα προϊόντα διαφόρων κατασκευαστών στη Λαϊκή Δημοκρατία της Κίνας, με τη χρήση των πρόσθετων κωδικών Taric.

Με τον παρόντα κανονισμό τερματίζεται η καταγραφή των εισαγωγών που ίσχυε από τις 30 Ιουνίου 2012 με βάση τον κανονισμό (ΕΕ) αριθ. 572/2012. Στο παρόν στάδιο δεν θα γίνει αναδρομική είσπραξη των δασμών αντιντάμπινγκ για τις εισαγωγές που καταγράφηκαν, όμως με βάση το σημείο 161 στο προοίμιο του κανονισμού, υπάρχει δυνατότητα η αναδρομική είσπραξη των δασμών να αποφασιστεί σε μεταγενέστερο στάδιο.

Ο κανονισμός ισχύει από τις 23 Φεβρουαρίου 2013 και λήγει στις 31 Δεκεμβρίου 2013. Επισυνάπτονται οι κυριότερες σελίδες του κανονισμού από το αγγλικό κείμενο, λόγω σοβαρού λάθους που υπάρχει στο ελληνικό κείμενο. Συγκεκριμένα το ελληνικό κείμενο του κανονισμού αναφέρεται σε επιβολή προσωρινού δασμού αντιντάμπινγκ, ενώ το αγγλικό κείμενο σε επιβολή οριστικού δασμού αντιντάμπινγκ.

  
(Αντονώλλα Νεοφυτίδου)  
για Διευθυντή  
Τμήματος Τελωνείων

ΕΝ/

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Ιστοσελίδας



## COUNCIL IMPLEMENTING REGULATION (EU) No 158/2013

of 18 February 2013

reimposing a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits  
(namely mandarins, etc.) originating in the People's Republic of China

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 <sup>(1)</sup> ('the basic Regulation'), and in particular Article 9 thereof,

Having regard to the proposal submitted by the European Commission after having consulted the Advisory Committee,

Whereas:

## 1. PROCEDURE

- (1) On 20 October 2007 the European Commission ('the Commission') announced by a notice published in the *Official Journal of the European Union* the initiation of an anti-dumping proceeding concerning imports into the Community of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China ('PRC') <sup>(2)</sup>. On 4 July 2008, the Commission, by Regulation (EC) No 642/2008 <sup>(3)</sup> ('the provisional Regulation') imposed a provisional anti-dumping duty on imports of certain prepared or preserved citrus fruits originating in the PRC.
- (2) The proceeding was initiated as a result of a complaint lodged on 6 September 2007 by the Spanish National Federation of Associations of Processed Fruit and Vegetables ('FENAVAL', previously named 'FNACV') ('the complainant') on behalf of producers representing 100 % of the total Community production of certain prepared or preserved citrus fruits (namely mandarins etc.). The complaint contained evidence of dumping of the product concerned and of material injury resulting there from, which was considered sufficient to justify the initiation of a proceeding.
- (3) As set out in recital 12 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 October 2006 to 30 September 2007 ('investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 October 2002 to the end of the investigation period ('period considered').

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> OJ C 246, 20.10.2007, p. 15.

<sup>(3)</sup> OJ L 178, 5.7.2008, p. 19.

- (4) On 9 November 2007, the Commission made imports of the same product originating in the PRC subject to registration by Regulation (EC) No 1295/2007 of 5 November 2007 making imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China subject to registration <sup>(4)</sup> ('Registration Regulation').

- (5) It is recalled that safeguard measures were in force against the same product until 8 November 2007. The Commission imposed provisional safeguard measures against imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) by Regulation (EC) No 1964/2003 <sup>(5)</sup>. Definitive safeguard measures followed by Regulation (EC) No 658/2004 <sup>(6)</sup> ('the safeguard Regulation'). Both the provisional and definitive safeguard measures consisted of a tariff rate quota i.e. a duty was only due once the volume of duty free imports had been exhausted.

- (6) By Regulation (EC) No 1355/2008 <sup>(7)</sup> ('the original Regulation') the Council imposed a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China.

- (7) The range of the definitive anti-dumping duty was between 361,4 and 531,2 EUR/tonne net product weight.

## 1.1. Xinshiji judgment

- (8) By judgment of 17 February 2011 in Case T-122/09 — *Zhejiang Xinshiji Foods Co. Ltd and Hubei Xinshiji Foods Co. Ltd v Council of the European Union supported by European Commission* <sup>(8)</sup> — ('the Xinshiji judgment') the General Court annulled the original Regulation in so far as it concerns the applicants Zhejiang Xinshiji Foods Co., Ltd and Hubei Xinshiji Foods Co. Ltd
- (9) The General Court's judgment was based on the grounds that the Commission breached the rights of defence by not providing the information necessary for the applicants to determine whether, in the light of the structure of the market, the adjustment of export price to the ex-works level of the importer was appropriate in that it made it possible to compare the export price and the Union industry price at the same level of trade. The General Court also considered that the Commission

<sup>(4)</sup> OJ L 288, 6.11.2007, p. 22.

<sup>(5)</sup> OJ L 290, 8.11.2003, p. 3.

<sup>(6)</sup> OJ L 104, 8.4.2004, p. 67.

<sup>(7)</sup> OJ L 350, 30.12.2008, p. 35.

<sup>(8)</sup> OJ C 103, 2.4.2011, p. 21.



infringed the duty to state reasons as the reasons for a measure must appear in the actual body of the measure and may not be stated in written or oral explanations given subsequently when the measure is already the subject of proceeding brought before the European Union Courts.

- (10) In April 2011 the Commission lodged an appeal (C-195/11 P) seeking to set aside the Xinshiji judgment. Following the declaration of invalidity of the original Regulation by the Court of Justice of the European Union ('the Court') on 22 March 2012 (see recital 16 below), the Commission withdrew its appeal as it became without object.
- (11) On 3 December 2011 the Commission published a notice <sup>(1)</sup> partially reopening the anti-dumping investigation ('the first reopening Notice') in order to implement the General Court's Xinshiji judgment. The reopening was limited to determine whether, in the light of the structure of the market, the adjustment of export price to the ex-work level of the importer was appropriate in that it made it possible to compare the export price and the Union industry price at the same level of trade.
- (12) Simultaneously, all interested parties received a disclosure document with its enclosures explaining the reasons behind the adjustment of the post-importation costs which had been taken into account in calculating the price of products originating in the PRC.
- (13) Interested parties were given the opportunity to make their views known in writing and to be heard within the time limit set out in the notice.
- (14) All parties which so requested within the above time limit and which demonstrated that there were particular reasons why they should be heard were granted the opportunity to be heard.
- (15) The two applicant exporters, eight importers, two associations of importers and one association of producers came forward as interested parties.

## 1.2. Analogue country judgment

- (16) On 22 March 2012, in Case C-338/10 — *Grünwald Logistik Service GmbH (GLS) v Hauptzollamt Hamburg-Stadt* ('the analogue country judgment') — the Court declared the original Regulation invalid <sup>(2)</sup>.
- (17) The Court held that since the Commission and the Council had determined the normal value of the product concerned on the basis of the prices actually paid or payable in the European Union for a like product, without taking all due care to determine that value on the basis of the prices paid for that same

product in a market economy third country, they had infringed the requirements of Article 2(7)(a) of the basic Regulation.

- (18) On 19 June 2012 a notice <sup>(3)</sup> ('the second reopening Notice') was published in the *Official Journal of the European Union*. In the notice parties were informed that, in view of the above-mentioned judgment of the Court, imports into the European Union of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the PRC were no longer subject to the anti-dumping measures imposed by the original Regulation, and that definitive anti-dumping duties paid pursuant to that Regulation for the product concerned should be repaid or remitted.
- (19) The notice also partially reopened the relevant anti-dumping investigation concerning imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the PRC in order to implement the above judgment of the Court.
- (20) The notice set out that the reopening was limited in scope to the selection of an analogue country, if any, and the determination of the normal value pursuant to Article 2(7)(a) of the basic Regulation to be used for the calculation of any margin of dumping.
- (21) Moreover, by the same notice, interested parties were invited to make their views known, submit information and provide supporting evidence regarding the availability of market economy third countries which could be selected to determine normal value pursuant to Article 2(7)(a) of the basic Regulation, including with regard to Israel, Swaziland, Thailand and Turkey.
- (22) The Commission directly informed the Union industry and their association, the exporting producers, suppliers and importers and their associations known to be concerned, and the authorities of the third countries concerned. Interested parties were given the opportunity to make their views known in writing and to be heard within the time limit set out in the notice.
- (23) All parties which so requested within the above time limit and which demonstrated that there were particular reasons why they should be heard were granted the opportunity to be heard.
- (24) Eight importers and one association of importers came forward as interested parties.

## 2. PROCEDURE AFTER DISCLOSURE OF PROVISIONAL MEASURES

- (25) Following the imposition of provisional anti-dumping duties on imports of the product concerned originating in the PRC, several interested parties submitted comments in writing. The parties who so requested were also granted the opportunity to be heard.

<sup>(1)</sup> OJ C 353, 3.12.2011, p. 15.

<sup>(2)</sup> Judgement of the Court (third chamber) of 22 March 2012 in case C-338/10, *GLS v Hauptzollamt Hamburg-Stadt*.

<sup>(3)</sup> OJ C 175, 19.6.2012, p. 19.



- (26) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. In particular, the Commission completed the investigation with regard to Union ('Community') interest aspects. In this respect, verification visits were carried out at the premises of the following unrelated importers in the Union:
- Wünsche Handelsgesellschaft International (GmbH & Co KG), Hamburg, Germany,
  - Hüpeden & Co (GmbH & Co) KG, Hamburg, Germany,
  - I. Schroeder KG. (GmbH & Co), Hamburg, Germany,
  - Zumdieck GmbH, Paderborn, Germany,
  - Gaston spol. s r.o., Zlín, Czech Republic.
- (27) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of the product concerned originating in the PRC and the definitive collection of the amounts secured by way of the provisional duty. They were also granted a period of time within which they could make representations subsequent to this disclosure.
- (28) Some importers proposed a joint meeting of all interested parties, pursuant to Article 6(6) of the basic Regulation; however the request was refused by one of them.
- (29) The oral and written comments submitted by the interested parties were considered and taken into account where appropriate.

3. PRODUCT CONCERNED AND LIKE PRODUCT

- (30) Subsequent to the imposition of provisional measures, two unrelated Union importers argued that certain types of mandarins should be excluded from the definition of the product concerned either because of their sweetness level or because of their packing when exported. In this respect, it is noted that these claims were not accompanied with any type of verifiable information and data proving that these types have characteristics that differentiate them from the product concerned. It is also noted that differences in packing cannot be considered as a critical element when defining product concerned, especially when formats of packing were already taken into account when defining the product concerned as set out in recital 16 of the provisional Regulation. These arguments are therefore rejected.
- (31) The measures were imposed on the product defined in the original Regulation as follows: prepared or preserved mandarins (including tangerines and satsumas), clementines, wilkings and other similar citrus hybrids, not containing added spirit, whether or not containing added sugar or other sweetening matter, and as defined under CN heading 2008, currently falling within CN

codes 2008 30 55, 2008 30 75 and ex 2008 30 90 (TARIC codes 2008 30 90 61, 2008 30 90 63, 2008 30 90 65, 2008 30 90 67 and 2008 30 90 69) and originating in the PRC.

- (32) In this regard, in the analogue country judgement the Court interpreted the statistics communicated by the Commission to the Court on 27 July 2011 as data relative solely to the product concerned. However, the Commission has re-examined the full extent of each CN code included in those statistics and it should be noted that they have a broader scope than the product under measures, since they included full CN codes 2008 30 55, 2008 30 75 and 2008 30 90. The statistical data only covering the product concerned or like product for CN codes 2008 30 55 and 2008 30 75, for the abovementioned countries during the investigation period are as follows:

Country	Volume of imports (tonnes)
PRC	49 791,30
Thailand	666,10
Turkey	151,20
Israel	4,80
Swaziland	0

- (33) Under CN code 2008 30 90, the statistics included products other than the product concerned. As a consequence, no conclusions can be drawn on imports of the like product with regard to this CN code. Therefore, it cannot be derived from the statistics that the like product was imported during the investigation period in significant quantities from either Israel or Swaziland.

4. SAMPLING

4.1. Sampling for exporting producers in the PRC

- (34) Two unrelated EU importers disputed that the Chinese exporting producers selected for the sample represented 60 % of the total exports to the Union. Nevertheless, they were not able to provide any verifiable information that could undermine the accuracy of the sampling information submitted by the cooperating Chinese exporting producers and largely confirmed in the course of the further investigation. This argument is therefore rejected.
- (35) Three Chinese cooperating exporting producers submitted representations claimed that their related companies were exporting producers of the product concerned and should therefore be included in the Annex of cooperating exporting producers. These claims were considered warranted and it was decided to revise the relevant Annex accordingly. One unrelated EU importer argued that exports made to the Union through traders should automatically be allowed to benefit from the measures applicable to the Chinese



which would undermine the remedial effect of measures, and is therefore rejected. Reference is also made to recitals 138 and 139 above.

(159) The provisional Regulation imposed an anti-dumping duty in the form of a specific duty for each company resulting from the application of the injury elimination margin to the export prices used in the calculation of the dumping during the IP. This methodology is confirmed at the level of definitive measures.

10.5. Undertakings

(160) At a late stage in the investigation several exporting producers in the PRC offered price undertakings. These were not considered to be acceptable given the significant price volatility of this product, the risk of duty avoidance and circumvention for this product (see recitals 124 and 125 of the provisional Regulation), and the fact that no guarantees were contained in the offers on the part of the Chinese authorities to allow for adequate monitoring in a context of companies not having been granted market economy treatment.

11. REGISTRATION

(161) Imports of the product concerned were made subject to registration by Commission Regulation (EU) No 572/2012 <sup>(1)</sup>. That registration should cease. The possibility of collecting retroactive duties will be decided upon at a later stage, when full statistical data will be available.

12. DISCLOSURE

(162) All parties were informed of the essential facts and considerations on the basis of which it was intended to impose a definitive anti-dumping duty on imports of the product concerned originating in the PRC. The parties were also granted a period within which they could make representations subsequent to the disclosure. The parties who so requested were granted the opportunity to be heard. Two groups of importers requested and were afforded hearings in the presence of the Hearing Officer of the Directorate-General for Trade.

(163) As regards the Xinshiji judgment, the arguments brought forward had already been analysed and addressed in the general disclosure document. None of these arguments led consequently to the alteration of the essential facts and considerations on the basis of which it was decided to confirm the injury margin determined in the original investigation. With regard to the analogue country judgement, a group of importers repeated comments already made during the investigation regarding the scope of the partial reopening, the use of IP data and the determination of the normal value. Those comments are addressed, respectively, in recitals 43, 46 and 54 above. The same group of importers expressed the view that they were in favour of a system of safeguard

<sup>(1)</sup> Commission Regulation (EU) No 572/2012 of 28 June 2012 making imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China subject to registration (OJ L 169, 29.6.2012, p. 50).

measures with quotas instead of anti-dumping duties. The reason for rejecting a quota system is explained above in recital 156. Furthermore it should be noted that safeguard measures can only be imposed in certain situations with very specific conditions, in compliance with Council Regulation (EC) No 260/2009 of 26 February 2009 on the common rules for imports <sup>(2)</sup>. It is considered that anti-dumping duties are the most appropriate way of addressing injurious dumping. This group of importers also pointed out that, in relation with the issues raised in recital 44 and 85 above, the Commission did not open an interim review when requested to do so. It is reiterated that, as of the date of the analogue country judgement, it was no longer possible to conduct an interim review, as there was no more duty in force. The Commission should resume the analysis of the pending request for interim review as of the date of entry into force of this Regulation. If the analysis of the request shows that the conditions set out in Article 11(3) of the basic Regulation are respected, an interim review should be initiated as soon as possible.

(164) In summary, after having considered all the comments after disclosure to interested parties of the findings of the investigation, it was concluded that none of them was of such a nature as to change the conclusions reached during the investigation.

13. DURATION OF MEASURES

(165) This Regulation implements the Court judgements concerning the original Regulation. Therefore, this Regulation shall expire five years after the entry into force of the original Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby reimposed on imports of prepared or preserved mandarins (including tangerines and satsumas), clementines, wilkings and other similar citrus hybrids, not containing added spirit, whether or not containing added sugar or other sweetening matter, and as defined under CN heading 2008, currently falling within CN codes 2008 30 55, 2008 30 75 and ex 2008 30 90 (TARIC codes 2008 30 90 61, 2008 30 90 63, 2008 30 90 65, 2008 30 90 67 and 2008 30 90 69) and originating in the People's Republic of China.

2. The amount of the definitive anti-dumping duty applicable for products described in paragraph 1 produced by the companies below shall be as follows:

Company	EUR/tonne net product weight	TARIC additional code
Yichang Rosen Foods Co., Ltd, Yichang, Zhejiang	531,2	A886

<sup>(2)</sup> OJ L 84, 31.3.2009, p. 1.

Company	EUR/tonne net product weight	TARIC additional code
Huangyan No 1 Canned Food Factory, Huangyan, Zhejiang	361,4	A887
Zhejiang Xinshiji Foods Co., Ltd, Sanmen, Zhejiang and its related producer Hubei Xinshiji Foods Co., Ltd, Dangyang City, Hubei Province	490,7	A888
Cooperating exporting producers not included in the sample as set out in the Annex	499,6	A889
All other companies	531,2	A999

#### Article 2

1. 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 <sup>(1)</sup> the amount of anti-dumping duty, calculated on the basis of Article 1 above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

#### Article 3

The customs authorities are hereby directed to cease the registration of imports carried out pursuant to Article 1 of Regulation (EU) No 572/2012.

#### Article 4

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

#### Article 5

This Regulation shall expire on 31 December 2013.

#### Article 6

Requests for review shall be admissible as of the entry into force of this Regulation.

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

Done at Brussels, 18 February 2013.

For the Council  
The President  
S. SHERLOCK

<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1.



## ANNEX

**COOPERATING EXPORTING PRODUCERS NOT INCLUDED IN THE SAMPLE**  
**(TARIC additional code A889)**

Hunan Pointer Foods Co., Ltd, Yongzhou, Hunan  
Ningbo Pointer Canned Foods Co., Ltd, Xiangshan, Ningbo  
Yichang Jiayuan Foodstuffs Co., Ltd, Yichang, Hubei  
Ninghai Dongda Foodstuff Co., Ltd, Ningbo, Zhejiang  
Huangyan No 2 Canned Food Factory, Huangyan, Zhejiang  
Zhejiang Xinchang Best Foods Co., Ltd, Xinchang, Zhejiang  
Toyoshima Share Yidu Foods Co., Ltd, Yidu, Hubei  
Guangxi Guiguo Food Co., Ltd, Guilin, Guangxi  
Zhejiang Juda Industry Co., Ltd, Quzhou, Zhejiang  
Zhejiang Iceman Group Co., Ltd, Jinhua, Zhejiang  
Ningbo Guosheng Foods Co., Ltd, Ninghai  
Yi Chang Yin He Food Co., Ltd, Yidu, Hubei  
Yongzhou Quanhui Canned Food Co., Ltd, Yongzhou, Hunan  
Ningbo Orient Jiuzhou Food Trade & Industry Co., Ltd, Yinzhou, Ningbo  
Guangxi Guilin Huangguan Food Co., Ltd, Guilin, Guangxi  
Ningbo Wuzhouxing Group Co., Ltd, Mingzhou, Ningbo

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