Commission Implementing Regulation (EU) 2020/1534 of 21 October 2020 imposing 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 following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1534

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union[(1)] ('the basic Regulation'), and in particular Article 11(2) thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) By Regulation (EC) No 1355/2008[(2)] the Council imposed a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits originating in the People's Republic of China ('PRC'). The measures took the form of a specific duty per company ranging from 361,4 EUR/tonne to 531,2 EUR/tonne net product weight.

(2) These measures have been annulled by the Court of Justice of the European Union on 22 March 2012[(3)] but were re-imposed on 18 February 2013 by Council Implementing Regulation (EU) No 158/2013[(4)].

(3) The measures were maintained by Commission Implementing Regulation (EU) No 1313/2014[(5)] following an expiry review pursuant to Article 11(2) of the basic Regulation.

1.2. Initiation of an expiry review

(4) Following the publication of a notice of impending expiry of the measure in force[(6)], the Federación Nacional de Asociaciones de Transformados Vegetales y Alimentos Procesados ('Fenaval' or 'the applicant') on behalf of producers representing 100 % of the total Union production of certain prepared or preserved citrus fruits (namely mandarins, etc.), requested the initiation of an expiry review. Fenaval argued

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that the expiry of the measures would likely result in continuation of dumping and continuation or recurrence of injury to the Union industry.

(5) On 10 December 2019 the Commission announced, by a notice published in the *Official Journal of the European Union*[7] ('the Notice of Initiation'), the initiation of an expiry review of the measures in force pursuant to Article 11(2) of the basic Regulation.

1.3. **Review investigation period and period considered**

(6) The investigation of a continuation or recurrence of dumping covered the period from 1 October 2018 to 30 September 2019 ('the review investigation period'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 October 2015 to 30 September 2019 ('the period considered').

1.4. **Interested parties**

(7) In the Notice of Initiation, the Commission invited all interested parties to participate in the investigation. In particular, it contacted the applicants, the known exporting producers in the PRC, the known unrelated importers in the Union and the authorities of the PRC.

(8) All interested parties were invited to make their views known, submit information and provide supporting evidence within the time limits set out in the Notice of Initiation. Interested parties were also granted the opportunity to request a hearing with the Commission investigation services and/or the Hearing Officer in trade proceedings.

1.5. **Sampling**

(9) In the Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

1.5.1. *Sampling of exporting producers in the PRC*

(10) The applicant reported a list of 33 Chinese exporters/producers of the product concerned[8]. Therefore, in view of the apparently large number of exporters/producers in the PRC, the Commission envisaged sampling in the Notice of Initiation.

(11) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, it asked the mission of the PRC to the Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(12) Five producers or group of producers in the PRC provided the requested information and agreed to be included in the sample. Given the high number of known exporters/producers of the product under review in the PRC, the level of cooperation was considered to be low.

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(13) In accordance with Article 17(1) of the basic Regulation, the Commission provisionally selected a sample of one producer and two group of producers with the largest volume of capacity and exports to the European Union. Two of the selected group of companies sold also significant quantities on the PRC's domestic market. This sample covered 69 % of the reported volume exported to the European Union during the period 1 October 2018-30 September 2019. The exporters' questionnaire was made available online[9] on the day of initiation and the link to the website was sent to all interested parties. The sampled companies had 30 days to submit the questionnaire reply.

(14) However, one group and a producer sampled decided to withdraw their cooperation. Therefore, the Commission decided to continue the investigation on the basis of all the remaining cooperating companies (two companies and a group of companies). Soon after been informed by the Commission that all the cooperating exporting companies had to complete the questionnaire for exporting producers, two exporting producers withdrew their cooperation. Only one group of exporting producers provided the required information. This group accounts for about [45 %-65 %] of all PRC exports to the Union.

1.5.2. *Sampling of unrelated importers*

(15) To decide whether sampling was necessary and, if so, to select a sample, all known importers/distributors were invited to fill in the sampling form attached to the Notice of Initiation.

(16) Only four importers replied to the sampling form and therefore sampling was not considered necessary.

1.6. **Questionnaires and verification visits**

(17) The Commission sent a questionnaire concerning the existence of significant distortions within the meaning of Article 2(6a)(b) of the basic Regulation in the PRC to the Government of the People's Republic of China ('GOC'). The questionnaires for the Union producers, importers, users, and exporting producers in the PRC were made available online[10] on the day of initiation.

(18) The Commission received questionnaire replies from the two Union producers, thirteen suppliers of raw materials and one exporting producer in the PRC. One importer and a user submitted incomplete questionnaire replies. The GOC did not reply to the questionnaire concerning the existence of significant distortions in the PRC.

(19) Due to the lockdown measures and travelling restrictions caused by the COVID – 19 outbreak globally and within the Union, planned verification visits pursuant to Article 16 of the basic Regulation were finally not carried out at the premises of the following legal entities.

Union producers:

— Agricultura y Conservas S.A., Algemesí (Valencia), Spain

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— Industrias Videca S.A., Villanueva de Castellón (Valencia), Spain

Exporting producers in the PRC and related traders:

— Zhejiang Taizhou Yiguan Food Co., Ltd and its related company Zhejiang Merry Life Food Co., Ltd ('the cooperating group of exporting producers' or 'the Yiguan group')

(20) Since no on-spot verification visit could be carried out at the premises of the above-mentioned companies due to the COVID-19 outbreak, the Commission considered the information properly submitted by the parties (such as questionnaire replies or replies to deficiency letters) in line with the Notice of 16 March 2020 on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations[11].

(21) The Commission remotely cross-checked all the information it deemed necessary for a determination of the likelihood of continuation or recurrence of dumping and injury and of the Union interest. The Commission carried out remote crosschecks of the two Union producers and the cooperating group of exporting producers.

1.7. **Comments on the complaint and on the initiation of the investigation**

(22) On 16 January 2020, two interested parties, namely the *China Chamber of Commerce for Import & Export for Foodstuffs, native produce and animal by-products* ('CCC') on behalf of a number of Chinese exporting producers and the Yiguan group, submitted their comments on the complaint and on the initiation of the investigation[12].

(23) The CCC mainly argued that the initiation of the current expiry proceeding was not justified and that therefore the present proceeding should be immediately terminated for the following reasons:

— The alleged market distortions and applications of Article 2(6a) for determining dumping margins is not in conformity with WTO law.

— The complaint contains misleading information and misperception of China's economic structure and no substantiated evidence to prove input prices of citrus fruits are being distorted. The CCC also raised the subject of the role of SOEs in certain Chinese markets – state presence and market distortions, of land use rights, of alleged discrimination by policies or measures and of labour costs.

— The Union common agricultural policy.

— Subsidies and supporting schemes provided to farmers by the Spanish government in the field of agriculture.

— Insufficient evidence to prove there exists likelihood of recurrence or continuation injury.

(24) The Commission rejected all arguments brought by the CCC. The specific reasoning to reject these arguments is provided in

— Recital (54), concerning the conformity of the methodology used to establish normal value with WTO law, and Sections 3.2.1.2 to 3.2.1.9, concerning the

significant distortions of costs and prices in the PRC, including those of inputs used in the production of canned mandarins.

— Recital (55), concerning the Union common agricultural policy and supporting schemes for Spanish farmers;

— Section 4, concerning likelihood of recurrence or continuation injury.

1.8. **Subsequent procedure**

(25) On 5 August 2020, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties ('final disclosure') and invited parties to comment. Only the CCC submitted comments.

(26) No requests for a hearing were received.

(27) On 7 September 2020, the Commission submitted to all interested parties an additional final disclosure to include a monitoring clause. All interested parties were granted a period of three days within which they could make comments on the additional final disclosure document. The Commission did not receive any comments.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. **Product concerned**

(28) The product concerned by this review is the same as the one in the original investigation, that is, 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 currently defined under HS heading 2008, originating in the People's Republic of China (the product concerned), currently classified under CN codes 2008 30 55, 2008 30 75 and ex 2008 30 90 ('canned mandarins').

(29) The product concerned is obtained by peeling and segmenting certain varieties of small citrus fruits (mainly satsumas) which are then packaged in a medium of sugar syrup, juice or water in various sizes to meet the specific demands of the different markets.

(30) Satsumas, clementines and other small citrus fruit are commonly known by the collective name 'mandarin'. Most of these different varieties of fruit are suitable to be used as fresh product or for processing. They are similar and their preparations or preservations are, thus, considered to be one single product.

2.2. **Like product**

(31) The investigation showed that the following products have the same basic physical characteristics as well as the same basic uses:

(a) the product concerned;

(b) the product produced and sold on the domestic market of the PRC;

(c) the product produced and sold in the Union by the Union industry.