# Commission Implementing Regulation (EU) 2019/1584 of 25 September 2019 initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Council Implementing Regulation (EU) No 1343/2013 on imports of peroxosulphates (persulphates) originating in the People's Republic of China, and making such imports subject to registration

COMMISSION IMPLEMENTING REGULATION (EU) 2019/1584

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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 Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

## A. EX-OFFICIO INVESTIGATION

(1) The European Commission ('the Commission') has decided on its own initiative, pursuant to Articles 13(3) and 14(5) the basic Regulation, to investigate the possible circumvention of the anti-dumping measures imposed on imports of peroxosulphates (persulphates) originating in the People's Republic of China and to make such imports subject to registration.

## B. PRODUCT

(2) The product concerned by the possible circumvention is peroxosulphates (persulphates), including potassium peroxymonosulphate sulphate, currently falling under CN codes 2833 40 00 and ex 2842 90 80 (TARIC 2842 90 80 20), and originating in the People's Republic of China ('the product concerned').

(3) The product under investigation for possible circumvention is the same as that defined in the previous recital, currently falling under the same codes as the product concerned, imported under the TARIC additional code A820 ('the product under investigation').

## C. EXISTING MEASURES

(4) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Council Implementing Regulation (EU) No

1343/2013[2]. An expiry review concerning these measures was initiated on 17 December 2018 and remains pending[3].

## D. GROUNDS

(5) The present investigation of possible circumvention of existing measures is based on sufficient evidence that the anti-dumping measures in force are being circumvented by a reorganisation of patterns and channels of sales of the product concerned.

(6) The measures in force range from 24,5 % to 71,8 %. One of the exporting producers, ABC Chemicals Co. Ltd Shanghai ('ABC'), is subject to a 0 % duty. Import statistics show a change in the pattern of trade following the imposition of the definitive anti-dumping duty on the product concerned. Those statistics also show that Chinese imports are now mainly entering the Union via ABC. However, evidence in possession of the Commission shows that ABC is no longer producing the product concerned. In addition, it appears that the production license of ABC was withdrawn in July 2017, that no new license was issued, and that the company is categorised as a distribution enterprise, not as a manufacturer.

(7) There seems to be no due cause or economic justification for this channelling of exports other than the existing 0 % duty for ABC.

(8) Furthermore, the Commission is in possession of sufficient evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of the product under investigation appear to have replaced imports of the product concerned. In addition, the Commission is in possession of sufficient evidence that imports of the product under investigation are made at prices below the non-injurious price established in the investigation that led to the existing measures.

(9) Finally, the Commission has obtained sufficient evidence that the prices of the product under investigation are dumped in relation to the normal value previously established.

(10) Should circumvention practices covered by Article 13 of the basic Regulation, other than the one mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

## E. PROCEDURE

(11) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the products under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.

(12) The authorities of the People's Republic of China will be notified of the initiation of the investigation.

### (a) Time-limits

(13) In the interest of sound administration, time-limits should be stated within which:

— parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— parties may make a written request to be heard by the Commission.

(14) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on parties making themselves known within the time-limits laid down in Article 3 of this Regulation.

(b) **Questionnaires**

(15) In order to obtain information it deems necessary for its investigation, the Commission will send a questionnaire to ABC, which is invited to respond to that questionnaire within the time-limit set in Article 3(2) of this Regulation.

(c) **Collection of information and holding of hearings**

(16) Interested parties must make themselves known by contacting the Commission within the time-limit set in Article 3(1) of this Regulation.

(17) All parties, including the Union industry, importers, and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

F. **REGISTRATION**

(18) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied from the date on which registration of such imports was imposed.

(19) Future liability may emanate from the findings of this investigation. With the information available at this stage, in particular the indication that certain companies currently subject to the residual duty of 71,8 % (TARIC additional code A999) or companies subject to an individual duty rate are selling their products through ABC (which is subject to a 0 % duty), the amount of possible future liability is set at the level of the residual duty, namely 71,8 % *ad valorem* on the CIF import value of the product under investigation, imported under the TARIC additional code A820.

G. **NON-COOPERATION**

(20) If any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available in accordance with Article 18 of the basic Regulation.

(21) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.

(22) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

## H. SCHEDULE OF THE INVESTIGATION

(23) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

## I. PROCESSING OF PERSONAL DATA

(24) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council[(4)] on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.

(25) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/

## J. HEARING OFFICER

(26) Parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of parties and third parties as may arise during the proceeding.

(27) The Hearing Officer may organise hearings and mediate between the party/-ies and Commissions services to ensure that the parties' rights of defence are being fully exercised.

(28) A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.

(29) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in Article 3 of this Regulation to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those