Commission Implementing Regulation (EU) 2019/297 of 20 February 2019 imposing a definitive anti-dumping duty on imports of chamois leather 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) 2019/297

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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,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) Following an anti-dumping investigation ('the original investigation'), the Council imposed by Regulation (EC) No 1338/2006[(2)], a definitive anti-dumping duty on imports of chamois leather originating in the People's Republic of China ('the PRC' or 'China' or 'country concerned'). The measure took the form of an ad valorem duty of 58,9 %.

(2) Following an expiry review (the 'previous expiry review'), the Council decided, by means of Implementing Regulation (EU) No 1153/2012[(3)], to maintain the anti-dumping duties in force.

1.2. Request for an expiry review

(3) Following the publication of a notice of impending expiry of the anti-dumping measures in force[(4)], the Commission received a request for the initiation of an expiry review of the measures in force pursuant to Article 11(2) of the basic Regulation.

(4) The request was lodged by the UK Leather Federation ('the applicant') on behalf of producers representing more than 25 % of the total Union production of chamois leather and was based on the grounds that the expiry of the measures would likely result in a continuation of dumping and continuation of injury to the Union industry.

1.3. Initiation of an expiry review

(5) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 6 December 2017, by a notice published in the *Official Journal of the European Union*[(5)] ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

1.4. **Interested parties**

(6) The Commission officially advised the applicant, known producers in the Union, exporting producers in the country concerned, unrelated importers, users in the Union known to be concerned and the representatives of the country concerned of the initiation of the expiry review. There are no other known Union producers of chamois leather than those represented by the applicant.

1.5. **Sampling**

(7) In the Notice of Initiation, the Commission stated that it might sample unrelated Union importers and the Chinese exporting producers in accordance with Article 17 of the basic Regulation.

(8) Since the only two existing Union producers represented 100 % of the Union production, no sampling of Union producers was envisaged.

1.5.1. *Sampling of unrelated importers*

(9) In order to decide whether sampling was necessary and, if so, to select a sample, all unrelated importers were invited to participate in this investigation. Those parties were requested to make themselves known by providing the Commission with the information requested in Annex II of the Notice of Initiation.

(10) Two unrelated importers came forward. However, those two companies have not imported the product concerned since the previous expiry review, namely since 2012.

1.5.2. *Sampling of exporting producers in the PRC*

(11) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked the known exporters or producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporters or producers, if any, that could be interested in participating in the investigation. The Mission did not respond to the request. The Commission thus only contacted the exporting producers identified by the applicant in the request to initiate the expiry review.

(12) However, no exporting producers in the PRC provided the requested information nor cooperated in the investigation.

1.6. **Questionnaires and verification visits**

(13) The Commission sought and verified all the information deemed necessary for the purpose of determining the likelihood of continuation or recurrence of dumping and the likelihood of continuation or recurrence of injury and Union interest.

(14) The Commission sent questionnaires to the two Union producers represented by the applicant. Questionnaire replies were received from both Union producers.

(15) Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

— Hutchings & Harding Ltd, Cambridge, United Kingdom

— Marocchinerie e Scamoscerie Italiane Spa, Turin, Italy

1.7. **Review investigation period and period considered**

(16) The review investigation period of dumping and injury covered the period from 1 October 2016 to 30 September 2017 (the 'review investigation period' or 'RIP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2014 to the end of the review investigation period ('the period considered').

2. PRODUCT CONCERNED AND LIKE PRODUCT

(17) The product concerned is chamois leather and combination chamois leather, whether or not cut to shape, including crust chamois leather and combination crust chamois leather originating in the PRC, currently falling within CN codes 4114 10 10 and 4114 10 90 ('the product concerned'). It is mainly used for cleaning and polishing.

(18) The investigation confirmed that, as in the original investigation, the product concerned and the product produced and sold in the Union by the Union industry remains to have the same basic physical and technical characteristics as well as the same basic uses, and are thus like products within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

(19) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping from the Chinese exporting producers.

(20) Since no exporting producer in the PRC cooperated with the investigation (see recital (12), the Commission assessed the likelihood of continuation or recurrence of dumping on the basis of the facts available, in accordance with Article 18 of the basic Regulation, in particular statistical data from Eurostat, from the Chinese Export Database, information in the request for review, publicly available information such as official website of the Chinese producer Henan Prosper[6] and information obtained from the applicant in the course of the review investigation.

3.1. Dumping during the review investigation period

3.1.1. *Normal value*

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/297. (See end of Document for details)*

(21) In accordance with Article 2(7)(a) of the basic Regulation, in the case of imports from the PRC, the normal value is normally determined on the basis of the price or of the constructed value in a market economy third country, or the price from such a third 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.

Normal value in the original investigation and previous expiry review

(22) In the original investigation, the Commission used the United States of America ('USA') as an analogue country and established the normal value based on the prices of a cooperating chamois leather producer in the USA.

(23) Since then, the only chamois leather producer operating in the USA closed its production. Therefore, in the previous expiry review, the Commission established the normal value based on the average price of imports from India into the Union (India being the biggest importer to the Union at that time).

Normal value for the current investigation

(24) In the Notice of Initiation of the current expiry review, the Commission informed interested parties that, in order to establish the basis for the normal value, it envisaged using the prices in the Union. It also informed interested parties that other market economy producers of chamois leather may be situated in India, Nigeria, Turkey and New Zealand. Those countries could be thus considered as third market economy countries ('analogue countries') within the meaning of Article 2(7)(a) of the basic Regulation. Interested parties had an opportunity to comment and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. However no comments were received.

(25) The Commission first contacted the representations of these potential analogue countries in order to ask for their help in identifying producers in their respective countries who could be invited to cooperate as analogue country producers. It then sent a request for cooperation to all known chamois leather producers in those countries, namely to seven known producers and to two known producer associations in India, to the only known producer in New Zealand, and to the only known producer in Turkey.

(26) Only one of the producers of chamois leather, located in India, initially agreed to cooperate. However, it subsequently failed to fill in the questionnaire sent by the Commission and stopped cooperating. None of the contacted analogue country producers of chamois leather thus finally cooperated in the investigation.

(27) In the absence of cooperation from a market economy country producer, the Commission decided to establish the normal value based on the same methodology as in the previous expiry review, namely on the basis of import prices of the largest importer of chamois leather to the Union.

(28) Based on the statistical data[7], Nigeria had the largest volume of imports to the Union in the RIP. The normal value was thus established on the basis of the average price of Nigerian imports into the Union.

3.1.2. *Export price*

(29) Since none of the exporting producers in the PRC cooperated with the investigation (see recital (12)), the Commission assessed the likelihood of continuation of dumping on the basis of the facts available, in accordance with Article 18 of the basic Regulation. The export price was established on the basis of the average statistical price of the imports from the PRC to the Union[8].

3.1.3. *Dumping*

(30) The Commission compared the normal value based on the method described under Section 3.1.1 with the export price established in line with the method described in Section 3.1.2. The dumping calculation resulted in a dumping margin of 118 %.

3.1.4. *Conclusion on dumping in the review investigation period*

(31) Although at lower volume than in the original investigation, the Chinese exporting producers continued to export chamois leather to the Union at dumped prices during the review investigation period.

3.2. **Analysis of the likelihood of continuation or recurrence of dumping**

(32) The Commission further analysed whether there was a likelihood of continuation or recurrence of dumping, should the measures be allowed to lapse. When doing so, it looked into the Chinese production capacity and spare capacity, the behaviour of Chinese exporters on other markets, the situation on the domestic market of China and the attractiveness of the Union market.

(33) As none of the known exporting producers of chamois leather cooperated in the investigation, the findings set out in recitals (34) to (44) concerning the likelihood of continuation or recurrence of dumping had to be based on other sources, that is, Eurostat data, data from the Chinese Export Database, information in the request for review, publicly available information such as the one available at the official website of the Chinese producer Henan Prosper and information obtained from the applicant in the course of the review investigation.

3.2.1. *Production capacity*

(34) In the absence of cooperation from any of the Chinese exporting producers, the information available to the Commission on production and spare capacity is based on the information provided by the applicant and on publicly available information.

(35) According to that information, there is an important capacity to produce chamois leather in China.