Commission Implementing Regulation (EU) 2018/1236 of 13 September 2018 terminating the investigation concerning the possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2015/82 on imports of citric acid originating in the People's Republic of China by imports of citric acid consigned from Cambodia, whether declared as originating in Cambodia or not

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1236

of 13 September 2018

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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 and 14(5) thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and existing measures

(1) The Council, following an anti-dumping investigation ('the original investigation'), imposed a definitive anti-dumping duty on imports of citric acid originating in the People's Republic of China ('PRC') by Regulation (EC) No 1193/2008[(2)]. The measures took the form of an *ad valorem* duty ranging between 6,6 % and 42,7 %.

(2) By Implementing Regulation (EU) 2015/82[(3)] the European Commission ('the Commission'), following an expiry review and partial interim review ('previous investigations') pursuant to Article 11(2) and (3) of the basic Regulation respectively, maintained the definitive measures and amended their level. The definitive anti-dumping duties in force on imports of citric acid originating in the PRC now range between 15,3 % and 42,7 % ('the measures in force').

(3) By Implementing Regulation (EU) 2016/32[(4)] the Commission, following an anti-circumvention investigation pursuant to Article 13 of the basic Regulation, extended the anti-dumping duty of 42,7 % imposed on imports of citric acid originating in the PRC to imports of citric acid consigned from Malaysia, whether declared as originating in Malaysia or not.

1.2. Request

(4) The Commission received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation to investigate the possible circumvention of the anti-dumping measures imposed on citric acid originating in the PRC by imports consigned from Cambodia, whether declared as originating in Cambodia or not, and to make such imports subject to registration.

(5) The request was lodged on 30 October 2017 by the European industry manufacturing citric acid.

(6) The request contained sufficient evidence on a change in the pattern of trade between the Union, the PRC and Cambodia which appeared to stem from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty, namely the transhipment, with or or without minor processing operations, of the product concerned originating in the PRC via Cambodia to the Union.

(7) Furthermore, the request contained sufficient evidence that the practice described above was undermining the remedial effects of the existing anti-dumping measures both in terms of quantities and prices and that the prices of the product under investigation were dumped in relation to the normal value previously established for the product concerned.

1.3. **Product concerned and product under investigation**

(8) The product concerned by the possible circumvention is citric acid (including trisodium citrate dihydrate ('citric salt')), falling within CN codes ex 2918 14 00 (TARIC code 2918 14 00 90) and ex 2918 15 00 (TARIC code 2918 15 00 19) and originating in the PRC ('the product concerned').

(9) The product under investigation is the same as that defined in the previous recital, but consigned from Cambodia, whether declared as originating in Cambodia or not, currently falling within the same CN codes as the product concerned ('the product under investigation').

(10) The investigation showed that citric acid and citric salt exported from the PRC to the Union and consigned from Cambodia have the same basic physical and chemical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic Regulation.

1.4. **Initiation**

(11) Having determined, after having informed the Member States, that sufficient evidence existed for the initiation of an investigation pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission decided to investigate the possible circumvention of the anti-dumping measures imposed on imports of product concerned originating in the PRC and to make imports of citric acid consigned from Cambodia, whether declared as originating in Cambodia or not, subject to registration.

(12) The investigation was initiated by Commission Implementing Regulation (EU) 2017/2300 on 13 December 2017[(5)] ('the initiating Regulation').

1.5. **Investigation period and reporting period**

(13) The investigation period covered the period from 1 January 2014 to 30 September 2017 ('the investigation period' or 'IP'). Data were collected for the investigation period to investigate, inter alia, the alleged change in the pattern of trade following the continuation of the measures and the increase of the definitive anti-dumping duties by Implementing Regulation (EU) 2015/82 and the existence of a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty. More detailed data were collected for the period from 1 October 2016 to 30 September 2017 ('the reporting period' or 'RP') in order to examine if imports were undermining the remedial effect of the measures in force in terms of prices and/or quantities and the existence of dumping.

1.6. **Investigation**

(14) The Commission officially informed the authorities of the PRC and Cambodia, the exporting producers and traders in those countries, the importers in the Union known to be concerned and the Union industry of the initiation of the investigation. Questionnaires/Exemption Claim Forms were sent to the producers/exporters in Cambodia and the PRC and to the importers in the Union known to the Commission or which made themselves known within the deadlines specified in recital 16 of the initiating Regulation.

(15) 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 initiating Regulation.

(16) Replies to questionnaires/exemption forms were received from one Cambodian exporting producer, Wang Kang Biochemical Co., Ltd ('WKB'), and five Union importers.

(17) A verification visit was carried out in March 2018 at the premises of WKB.

(18) The Commission consulted also several governmental departments and agencies in Cambodia, including the Ministry of Commerce, the Ministry of Finance, the Ministry of Industry and Handicraft, the Custom Authorities and the Council of Development of Cambodia.

2. **RESULTS OF THE INVESTIGATION**

2.1. **General considerations**

(19) In accordance with Article 13(1) of the basic Regulation, the following elements should be analysed successively in order to assess possible circumvention:

— whether there was a change in the pattern of trade between Cambodia, the PRC and the Union,

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/1236. (See end of Document for details)*

— if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the anti-dumping measures in force,

— if there is evidence of injury or the remedial effects of the anti-dumping measures in force were being undermined in terms of the prices and/or quantities of the product under investigation, and

— whether there is evidence of dumping in relation to the normal values previously established for the product concerned.

2.2. **Change in pattern of trade**

(20) Changes in the pattern of trade between Cambodia, the PRC and the Union in the IP are analysed on the basis of the import and export statistics of Cambodia.

(21) During the consultations with the Cambodian custom authorities, the Commission received the database of all the import and export transactions under Harmonised System (HS) heading 2918 for the IP. The database allowed for identification of the month and year of each given single transaction, description of the Cambodian customs code up to eight digits level, detailed product description, name of the exporter/importer, volume and value of the transaction, country of import/origin/destination.

(22) Furthermore, during the consultations with the Cambodian Ministry of Commerce and the Ministry of Industry and Handicraft, it was confirmed that the sole cooperating Cambodian exporting producer, WKB, is the only exporter and producer of the product under investigation existing in Cambodia.

(23) The product concerned was imported into Cambodia, both from China directly and also via Thailand and Vietnam, by the sole exporting producer of the product under investigation in Cambodia, WKB, and by other non-exporting Cambodian companies.

(24) The imports by other companies, active mainly in the garment and textile industry, were relatively low in volumes and were consumed internally in Cambodia — no export transaction of citric acid or citric salt other than the exports from WKB are noted in the custom records. Therefore, these imports can be excluded from the analysis of the change in the pattern of trade between Cambodia, the PRC and the Union.

(25) WKB first appeared in the customs statistics of Cambodia as an importer of citric acid in the year 2015. WKB's imports are substantial compared to the rest of Cambodian imports and show an increasing trend in the period from 2015 to the RP.

(26) WKB also appeared first in export statistics as an exporter of citric salt both to the Union and to third countries in the year 2015.

(27) Data on Cambodian imports of the product concerned originating in China and exports of the product under investigation from Cambodia to the Union are shown in the tables below. It should be underlined the volumes of exports are much higher than volumes of imports, which is explained below by the production process of WKB.

Table 1

Import volumes (tonnes) from the PRC to Cambodia

	2014	2015	2016	RP
WKB[a]	0	2 250	1 200	2 990
Other companies[b]	398	497	581	533
Imports total	**398**	**2 747**	**1 781**	**3 523**

a Only citric acid.

b Citric acid and citric salt.

Source: Cambodian custom authorities.

Table 2

Export volumes (tonnes) from Cambodia

	2014	2015	2016	RP
WKB[a]	0	872	9 174	24 221
Other companies	0	0	0	0
Exports total[b]	0	872	9 174	24 221

a Only citric salt.

b Export to EU remains in the range of 55 % to 85 % of the total exports

Source: Cambodian custom authorities.

(28) The increase in volumes, of both exports from Cambodia to the Union and of exports from the PRC to Cambodia has taken place following the continuation of the measures and the increase of the definitive anti-dumping duties by Implementing Regulation (EU) 2015/82. This constitutes a change in the pattern of trade between the PRC and Cambodia on the one hand, and Cambodia and the Union, on the other hand.

2.3. **Alleged circumvention practice**

2.3.1. *Due cause or economic justification other than imposition of the anti-dumping duty*

(29) According to the findings of the investigation, there is due cause or economic justification regarding the start of economic activity and establishment of production by WKB in Cambodia. The fact that a Chinese investor invested in WKB does not alter those findings. Indeed, the main reason for the location of production facilities in Cambodia was a package of incentives offered to the Chinese investor.

(30) WKB was established in 2014 (production started in 2015). Before establishment of WKB, the Er-Kang Group (mother group of WKB) was not involved in the production of the product concerned in the PRC. The Er-Kang group also does not