Commission Implementing Regulation (EU) 2018/931 of 28 June 2018 imposing a definitive anti-dumping duty on imports of oxalic acid originating in India and 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) 2018/931

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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 means of Implementing Regulation (EU) No 325/2012[(2)] a definitive anti-dumping duty on imports of oxalic acid originating in India and the People's Republic of China ('countries concerned').

(2) Following the judgment of the General Court of 20 May 2015[(3)], the measures were annulled in so far as they concerned the Chinese exporting producer Yuanping Changyuan Chemicals Co. Ltd ('Yuanping'). Following the implementation of that judgment, the Commission re-imposed anti-dumping measures on imports of the product concerned by Yuanping with effect from 30 November 2016[(4)].

(3) The existing measures take the form of an *ad valorem* duty between 14,6 % and 52,2 % on imports from the countries concerned. Concerning the People's Republic of China ('the PRC'), duties range from 14,6 % to 37,7 % for Chinese cooperating companies. The country-wide dumping duty is 52,2 %. Concerning India, the duties range from 22,8 % to 31,5 % for the cooperating companies. The country-wide duty is 43,6 %.

1.2. Request for an expiry review

(4) Following the publication of a notice of impending expiry of the anti-dumping measures in force[(5)], the Commission received a request for the initiation of an expiry

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/931. (See end of Document for details)*

review of the measures against the countries concerned, pursuant to Article 11(2) of the basic Regulation.

(5) The request was lodged on 18 January 2017 by Oxaquim SA ('the applicant') representing more than 50 % of the total Union production of oxalic acid.

(6) The request was based on the grounds that the expiry of the measures would likely result in continuation of dumping and recurrence of injury to the Union industry.

1.3. **Initiation of an expiry review**

(7) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission announced, on 12 April 2017, by a notice published in the *Official Journal of the European Union*[6] the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation ('Notice of Initiation').

1.4. **Investigation**

1.4.1. *Review investigation period and period considered*

(8) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 April 2016 to 31 March 2017 (the 'review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2013 to the end of the RIP (the 'period considered').

1.4.2. *Parties concerned by the investigation*

(9) The Commission officially advised the applicant, the other known Union producer, the known exporting producers in the countries concerned, the known importers, the users and traders known to be concerned, known associations representing Union producers and users and the representatives of the exporting countries of the initiation of the expiry review.

(10) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation. No interested party requested a hearing.

1.4.3. *Sampling*

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

1.4.3.1. Sampling of exporting producers

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

(13) Three exporting producers in India provided the requested information and agreed to be included in the sample. Therefore, sampling was not necessary and the Commission sent the questionnaire to all three companies. However, only two Indian companies provided a reply to the questionnaire.

(14) No company from the PRC came forward. The Commission informed the Chinese authorities by means of a Note Verbale on 18 May 2017 that it had not received any cooperation from exporting producers in the PRC. It therefore intended to base its findings for the exporting producers in the PRC on the facts available in accordance with Article 18 of the basic Regulation. No comments were received.

1.4.3.2. Sampling of Union producers

(15) Oxalic acid was manufactured by only two producers in the Union during the period considered. Thus no sampling of Union producers was necessary. Although questionnaires were sent to both companies, only the applicant provided a questionnaire reply.

1.4.3.3. Sampling of unrelated importers

(16) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known unrelated importers to provide the information specified in the Notice of Initiation.

(17) Seven companies replied to the sampling form. Only one of them indicated that it had imported oxalic acid from the countries concerned. Due to this limited number of companies, sampling was not considered necessary.

1.5. **Questionnaires and verification visits**

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

(19) The Commission sent questionnaires to the two known Union producers, to three Indian exporting producers, to all known users and seven unrelated importers who have replied to the sampling form.

(20) Questionnaire replies were received from two Indian exporting producers, one Union producer and five users.

(21) The Commission carried out verifications at the premises of the following companies:

(a) Union producer:
- Oxaquim SA, Spain

(b) Exporting producers:
- Star Oxochem Pvt. Ltd, India (‘Star Oxochem’)
- Radiant Indus Chem Pvt. Ltd, India (‘Radiant’).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(22) The product concerned is oxalic acid, whether in dihydrate (CUS number 0028635-1 and CAS number 6153-56-6) or anhydrous form (CUS number 0021238-4 and CAS number 144-62-7) and whether or not in aqueous solution, currently falling within CN code ex 2917 11 00 (TARIC code 2917 11 00 91) and originating in India and the PRC ('product concerned').

(23) Oxalic acid is used in a wide range of applications, for example as a reducing and bleaching agent, in pharmaceutical synthesis and in the manufacture of chemicals.

(24) In the original investigation, it was found that there are two types of oxalic acid; unrefined oxalic acid and refined oxalic acid. Refined oxalic acid, which was produced in the PRC but not in India, is manufactured through a purification process of unrefined oxalic acid, the purpose of which is to remove iron, chlorides, metal traces and other impurities. In the absence of cooperation from the PRC it was assumed for the current review investigation that exporting producers in the PRC manufactured and exported refined oxalic acid as in the original investigation.

2.2. Like product

(25) Oxalic acid produced and sold by the Union industry in the Union, oxalic acid produced and sold on the domestic market of India and the PRC and oxalic acid imported into the Union from India and the PRC have essentially the same basic physical and chemical characteristics and the same basic end uses.

(26) Therefore, these products are alike within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

3.1. Preliminary remarks

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

(28) During the RIP, exports to the Union of oxalic acid from the PRC and India continued albeit at lower volumes than in the investigation period of the original investigation (from 1 January to 31 December 2010). According to Eurostat data, Chinese and Indian imports of oxalic acid entering the Union accounted for around 16 % of the market in the RIP.

3.2. India

(29) There are four known producers of oxalic acid in India, of which two provided a reply to the questionnaire. On the basis of the information at its disposal[7], the Commission estimated total production in India at around 30 000 metric tonnes. Total

exports from India are estimated at around 9 000 metric tonnes, based on Indian government data for 2016-2017[8].

(30) The imports from India to the Union in the RIP were limited and amounted to around 800 to 900 tonnes, based on Eurostat and Indian government data.

(31) The two cooperating Indian producers had very limited Union sales, following a drop since the imposition of the measures. The main exporting producer from India during the RIP was the company that stopped its cooperation by not replying to the questionnaire.

(32) Imports from India are also subject to the 6,5 % CCT[9] duty.

3.2.1. *Dumping in the review investigation period*

(a) ***Normal value***

(33) The Commission first examined whether the total volume of domestic sales of the two cooperating Indian companies was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product under review to the Union during the RIP. On this basis, the total sales of the two cooperating exporting producers of the like product on the domestic market were found representative.

(34) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the exporting producers with representative domestic sales. The Commission then examined whether the domestic sales by each exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union. The Commission established that the sales of the two cooperating exporting producers were representative.

(35) The Commission then defined the proportion of profitable sales to independent customers on the domestic market for each product type during the RIP in order to decide whether to use actual domestic sales price for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.

(36) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:

(a) the domestic sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and