Commission Implementing Regulation (EU) 2017/2230 of 4 December 2017 imposing a definitive anti-dumping duty on imports of trichloroisocyanuric acid 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) 2017/2230

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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:

A. PROCEDURE

1. Measures in force

(1) Following an anti-dumping investigation ('the original investigation'), the Council imposed, by means of Regulation (EC) No 1631/2005[(2)] a definitive anti-dumping duty on imports of trichloroisocyanuric acid ('TCCA') originating in the People's Republic of China ('the PRC') and the United States of America ('USA'). The measures against the PRC took form of *ad valorem* individual duties ranging from 7,3 % to 40,5 % with a residual duty of 42,6 %.

(2) By Implementing Regulation (EU) No 855/2010[(3)], the Council lowered the individual duty applied to one company from 14,1 % to 3,2 %.

(3) Following an expiry review of the measures ('first expiry review'), which only targeted imports of TCCA originating in the PRC, the Council extended the anti-dumping duties on TCCA of Chinese origin for another 5 years by Council Implementing Regulation (EU) No 1389/2011[(4)].

(4) On 28 August 2013 and 1 July 2014 respectively, the Commission initiated two new exporter reviews. By Implementing Regulation (EU) No 569/2014[(5)], the Commission imposed an individual duty of 32,8 % on TCCA manufactured by one new Chinese exporting producer[(6)]. The other Chinese exporting producer[(7)] formally withdrew its request and consequently the Commission terminated the investigation by Commission Implementing Regulation (EU) 2015/392[(8)].

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/2230. (See end of Document for details)*

2. **Request for an expiry review**

(5) Following the publication of the notice of impending expiry[9] of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of the measures in force pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community[10].

(6) The request was lodged by two Union producers: Ercros SA and Inquide SA ('the applicants') who represented more than 50 % of the total estimated Union production of TCCA in 2015.

(7) The request was based on the grounds that the expiry of the measures in force would in all likelihood result in continuation of dumping and injury to the Union industry.

3. **Initiation of the expiry review**

(8) Having determined that sufficient evidence existed, the Commission announced on 20 December 2016, by a notice published in the *Official Journal of the European Union*[11] ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. **Investigation**

4.1. *Review investigation period and period considered*

(9) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 October 2015 to 30 September 2016 (the 'review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2013 to the end of the review investigation period (the 'period considered').

4.2. *Parties concerned by the investigation*

(10) The Commission advised the applicants, the other known Union producer, known exporting producers in the PRC, importers, traders, users, associations known to be concerned and the representatives of the PRC of the initiation of the expiry review.

(11) 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 party came forward and requested a hearing at the initiation stage of the investigation.

4.3. *Sampling*

(12) In the Notice of Initiation, the Commission stated that in accordance with Article 17 of the basic Regulation, it intended to sample exporting producers and unrelated importers in case a significant number of them came forward.

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Sampling of exporting producers in the PRC

(13) 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 Chinese exporting producers, if any, that could be interested in participating in the investigation.

(14) 27 known Chinese exporting producers were contacted at the initiation. No exporting producer in the PRC came forward with a response to the sampling form or decided to cooperate in the expiry review. Therefore, no sampling of Chinese exporting producers was necessary in this procedure.

Sampling of unrelated importers

(15) To decide whether sampling was necessary and, if so, to select a sample, all known (in total 14) importers/distributors were invited to fill in the sampling form attached to the Notice of Initiation.

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

4.4. *Questionnaires and verification visits*

(17) 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.

(18) The Commission sent questionnaires to two known producers in the analogue country (Japan), the three known Union producers, two unrelated importers and 39 known users in the Union.

(19) Complete questionnaire replies were received from the two analogue country producers, two Union producers[(12)] and one unrelated importer.

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

(a) Union producers[(13)]:

— Ercros SA, Barcelona, Spain

(b) Importers:

— Diasa Industrial, Calahorra, Spain

(c) Producers in the market economy analogue country:

— Nissan Chemical Industries Ltd, Japan,

— Shikoku Chemicals Corporation, Japan.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

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(21) The product concerned is TCCA and preparations thereof also referred to as 'symclosene' under the international non-proprietary name (INN), currently falling within CN codes ex 2933 69 80 and ex 3808 94 20 (TARIC codes 2933 69 80 70, 3808 94 20 20) originating in the PRC.

(22) TCCA is a chemical product used as a broad-spectrum organic chlorine disinfectant and bleacher, in particular for disinfecting water in swimming pools and spas. Other uses include water treatment in septic tanks or cooling towers and cleansing of kitchen appliances. TCCA is sold in the form of powder, granules, tablets or chips. All forms of TCCA and preparations thereof share the same basic characteristics (disinfectant) and are therefore considered as a single product.

2. **Like product**

(23) The product concerned and the like product produced and sold on the domestic market of Japan, the analogue country, as well as the like product produced and sold in the Union by the Union industry were found to have the same basic physical, chemical and technical characteristics and uses.

(24) The Commission therefore concluded that these products are alike within the meaning of Article 1(4) of the basic Regulation.

C. **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING**

(25) In accordance with Article 11(2) of the basic Regulation, the Commission first examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.

1. **Cooperation from the PRC**

(26) Upon initiation of the review investigation all known Chinese exporting producers were invited to come forward and to provide replies to the sampling form attached to the Notice of Initiation. However, no Chinese company reacted to the initiation of the review investigation and/or decided to cooperate at any further stage of the procedure.

(27) The Mission of the People's Republic of China to the European Union was informed by *note verbale* that under these circumstances the Commission intended to base its findings concerning the likelihood of continuation or recurrence of dumping and injury on the facts available pursuant to Article 18 of the basic Regulation. No comments were received.

(28) Consequently, findings with regard to continuation or recurrence of dumping were based on the information contained in the review request, Eurostat statistics, the Article 14(6) database, and the Chinese Export Database and market estimations of the cooperating analogue country producers.

2. **Dumping during the review investigation period**

2.1. *Market economy third country*

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(29) In accordance with Article 2(7)(a) of the basic Regulation, normal value was determined on the basis of the prices paid or payable on the domestic market or the constructed value in an appropriate market economy third country (the 'analogue country').

(30) Both in the original investigation and in the first expiry review the Commission chose Japan as analogue country for the purpose of establishing normal value. Following the review request, in the Notice of Initiation, the Commission informed interested parties that it again envisaged using Japan as analogue country. In addition, the Notice of Initiation mentioned that other market economy producers may be located, inter alia, in the USA. No comments were received.

(31) The Commission contacted all known exporting producers, namely two in Japan and three in the USA. None of the companies from the USA agreed to cooperate in the investigation. The two Japanese companies, Nissan Chemical Industries Ltd and Shikoku Chemicals Corporation agreed to cooperate in the investigation and replied to the questionnaire which was subsequently verified on spot.

(32) Japan has a sizeable domestic market[(14)] of TCCA with a satisfactory level of competition therein. There are at least three competing domestic producers[(15)] in Japan and during the review investigation period 15 % of the market was covered by imports[(16)]. The country is not protected by high customs duties[(17)]. Finally, Japan has no trade defence measures on imports of TCCA.

(33) In view of the above, the Commission concluded that Japan was an appropriate analogue country under Article 2(7)(a) of the basic Regulation.

2.2. *Chinese exporting producers without MET*

(34) Due to the lack of cooperation from the PRC, the dumping calculation was performed without differentiation of the product types.

(a) *Normal value*

(35) Normal value for exporting producers without MET was established based on the data verified at the premises of the two cooperating producers in Japan.

(36) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the total volume of domestic sales of the like product to independent customers made by the cooperating analogue country producers during the review investigation period was representative. To this end, their combined domestic sales volumes were compared to the total volume of the product concerned exported by Chinese exporting producers without MET to the Union in the same period. On that basis, the Commission found that the like product was sold in representative quantities on the Japanese domestic market.

(37) The Commission subsequently examined for the analogue country producers whether the product sold domestically could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation.