Commission Implementing Regulation (EU) 2017/1759 of 27 September 2017 imposing a definitive anti-dumping duty on imports of barium carbonate 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) 2017/1759

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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 1175/2005[(2)], a definitive anti-dumping duty on imports of barium carbonate originating in the People's Republic of China ('PRC' or 'China' or 'country concerned'). The measures took the form of a specific duty of 6,30 EUR/tonne and 8,10 EUR/tonne for two Chinese exporting producers with an individual duty rate and 56,40 EUR/tonne for all other exporting producers in China.

(2) In August 2011, following an expiry review ('the previous expiry review'), the measures were extended for a period of five years by Council Implementing Regulation (EU) No 831/2011[(3)].

1.2. Request for an expiry review

(3) Following the publication of a notice of the impending expiry of the anti-dumping measures in force[(4)], the Commission received on 12 May 2016 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation ('the request').

(4) The request was lodged by Solvay & CPC Barium Strontium GmbH & Co. KG, Germany ('the applicant'), the sole Union producer of barium carbonate, thus representing 100 % of the total Union production. The request was based on the grounds that the expiry of the definitive anti-dumping measures would likely result in the continuation of dumping and injury.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1759. (See end of Document for details)*

1.3. **Initiation**

(5) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 18 August 2016, by a notice published in the *Official Journal of the European Union*[(5)] ('the Notice of Initiation'), the initiation of an expiry review in accordance with Article 11(2) of the basic Regulation.

1.4. **Interested parties**

(6) In the Notice of Initiation, the Commission invited interested parties to come forward in order to participate in the investigation. In addition, the Commission specifically informed the applicant, known exporting producers, the authorities of the PRC, known importers and users known to be concerned about the initiation of the investigation and invited them to participate.

(7) Interested parties had an opportunity to make their views known in writing and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within the time limits set out in the Notice of Initiation.

1.5. **Analogue country**

(8) In the Notice of Initiation, in relation to imports from the PRC, the Commission informed interested parties that it envisaged India as a market economy third country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation and invited them to comment on this choice. No comments were received in this respect.

(9) The Commission contacted the Indian authorities and the known producers of barium carbonate in India and invited them to cooperate. None of the producers in India cooperated by supplying the requested information.

(10) In parallel, the Commission sought cooperation of known producers in other potential analogue countries and also contacted the relevant authorities in Brazil, Iran, the Republic of Korea and the USA, inviting them to provide the names and addresses of producers' associations and producers that are known to produce and sell barium carbonate on their market. However, no producer from these countries was willing to cooperate.

1.6. **Sampling**

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

Sampling of exporting producers in the PRC

(12) In view of the apparent large number of exporting producers in the PRC, sampling was envisaged in the Notice of Initiation.

(13) 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, the Commission requested the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(14) No Chinese exporting producer came forward. Sampling was thus not necessary.

Sampling of importers

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

(16) Six importers came forward, identified themselves, and provided the Commission with the information requested in the Notice of Initiation.

(17) In view of the small number of importers, the Commission chose not to select a sample and sent the questionnaire to all six importers who identified themselves. However, as set out in recital 19 below, none of these importers replied to the questionnaire.

1.7. **Questionnaire replies and verification visits**

(18) The Commission sent questionnaires to the sole Union producer, to the 6 importers and the 86 users that came forward, to all 4 known Chinese exporting producers and to 20 known producers in potential analogue countries (18 in India, 1 in Iran and 1 in the USA).

(19) Questionnaire replies were received from the sole Union producer and 15 users. None of the Chinese exporting producers and none of the producers in the potential analogue countries cooperated. Likewise, and while they identified themselves initially, as set out in recital 16 above, none of the importers that came forward replied to the questionnaire that was subsequently sent by the Commission.

(20) The Commission sought and verified all the information deemed necessary for the determination of the likelihood of continuation or recurrence of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producer

— Solvay & CPC Barium Strontium GmbH & Co. KG, Germany.

Users

— Esmalglass, S.A.U, Villareal, Spain,

— Torrecid, S.A, L'Alcora, Spain,

— BorsodChem Zrt, Kazincbarcika, Hungary.

1.8. **Review investigation period and period considered**

(21) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 July 2015 to 30 June 2016 (‘the review investigation period’ or ‘RIP’). The examination of the trends relevant for the assessment of the likelihood

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of a continuation or recurrence of injury covered the period from 1 January 2013 to the end of the review investigation period ('the period considered').

1.9. **Disclosure**

(22) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the definitive anti-dumping measures in force. The parties were also granted a period within which they could make representations subsequent to this disclosure.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. **Product under review**

(23) The product under review is barium carbonate with a strontium content of more than 0,07 % by weight and a sulphur content of more than 0,0015 % whether in powder, pressed granular or calcined granular form (the product under review), originating in the PRC, currently falling within CN code ex 2836 60 00 (TARIC code 2836 60 00 10).

(24) Barium carbonate is used as a raw material for several industries. It is primarily used in the production of ceramic frits and glazes, brick and tiles, special purpose glasses, and in the chemical industry

2.2. **Like product**

(25) The investigation showed that the following products have the same physical and chemical characteristics as well as the same basic uses:

— the product under review,

— the product produced and sold on the domestic market of the PRC, and

— the product produced and sold in the Union by the Union industry.

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

3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

3.1. **Preliminary remarks**

(27) In accordance with Article 11(2) of the basic Regulation, it was examined whether dumping was taking place during the review investigation period and whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.

(28) As mentioned in recital 14 none of the Chinese exporting producers cooperated in this investigation. Therefore, the Commission informed the Chinese authorities that in accordance with Article 18 of the basic Regulation facts available may be used with regard to the Chinese exporting producer in order to determine whether dumping is currently taking place and the likelihood of continuation or recurrence of dumping. The Commission did not receive any comments or requests for an intervention of the Hearing Officer from the Chinese authorities in this regard.

(29) On this basis, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the existence of dumping and the likelihood of continuation or recurrence of dumping set out below were based on facts available, in particular:

(i) information contained in the request;

(ii) Eurostat statistics and the data reported to the Commission by the Member States pursuant to Article 14(6) of the basic Regulation ('Article 14(6) database');

(iii) publicly available statistics of the Chinese Export Statistics and COMTRADE[(6)] Database; and

(iv) publicly-available information[(7)].

3.2. **Dumping**

3.2.1. *Exporting producers who have been granted market economy treatment in the original investigation*

3.2.1.1. Normal value

(30) Two exporting producers were granted market economy treatment ('MET') in the original investigation. In accordance with Article 18 of the basic Regulation, due to a lack of cooperation, the normal value for these exporting producers was, accordingly, based on facts available.

(31) The normal value was established on the basis of Chinese export prices to other third country markets with no anti-dumping measures in place as recorded in the Chinese Export Statistics Database in accordance with Article 2(3) of the basic Regulation.

(32) This was considered the most reasonable methodology given the lack of other information available due to the lack of cooperation.

3.2.1.2. Export prices

(33) In the absence of cooperation of any Chinese exporting producer, the export price was based on the Article 14(6) database for imports to the Union of the product under review during the review investigation period by the two Chinese exporting producers who were granted MET during the original investigation.

3.2.1.3. Comparison

(34) The Commission compared the normal value and the export price thus established on an ex-works basis. For the purpose of a fair comparison, the export price and the normal value were adjusted for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments were made for ocean freight, handling costs and inland freight based on publicly available information and information in the request in accordance with Article 18 of the basic Regulation.