Commission Implementing Regulation (EU) 2017/1171 of 30 June 2017 imposing a definitive anti-dumping duty on imports of melamine 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) 2017/1171

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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 Implementing Regulation (EU) No 457/2011[(2)], a definitive anti-dumping duty on imports of melamine originating in the People's Republic of China ('the PRC' or 'China' or 'country concerned').

(2) The measures took the form of a fixed duty of 415 EUR/tonne on all imports from the PRC with the exception of three cooperating Chinese exporting producers that were granted a minimum import price ('MIP') of 1 153 EUR/tonne.

2. Request for an expiry review

(3) Following the publication of the notice of impending expiry[(3)] 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[(4)].

(4) Three Union producers lodged this request: Borealis Agrolinz Melamine GmbH, OCI Nitrogen BV and Grupa Azoty Zaklady Azotow Pulawy SA ('the applicants'). They represented more than 50 % of the total Union production of melamine in 2015.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1171. (See end of Document for details)*

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

3. **Initiation of an expiry review**

(6) Having determined that sufficient evidence existed, the Commission announced on 11 May 2016, 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 Regulation (EC) No 1225/2009.

4. **Investigation**

4.1. *Review investigation period and period considered*

(7) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 April 2015 to 31 March 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 2012 to the end of the review investigation period (the 'period considered').

4.2. *Parties concerned by the investigation*

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

(9) 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. All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(10) The Commission services granted one interested party, namely China Council for the Promotion of International Trade ('CCPIT') a hearing at the initial stage of the procedure. Another hearing occurred with the Hearing Officer with the same interested party after definitive disclosure on 4 May 2017.

4.3. *Sampling*

(11) In the Notice of Initiation, the Commission stated that it, in accordance with Article 17 of the basic Regulation, intended to sample interested parties in case a significant number of them came forward.

— Sampling of exporting producers in the PRC

(12) 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.

(13) No exporting producers in the PRC came forward with a response to the sampling form or decided to cooperate in the expiry review. Therefore, there was no sampling of Chinese exporting producers in this procedure.

— Sampling of Union producers

(14) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. Three Union producers, that were also the applicants, provided a reply to the standing forms while the two other Union producers did not cooperate in the investigation. In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of sales and production of melamine. The provisional sample consisted of the three cooperating Union producers. The sampled Union producers accounted for over 80 % of total estimated Union production in 2015. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample was considered representative of the Union industry.

— Sampling of unrelated importers

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

(16) Only one importer 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 the two producers in the analogue country the three sampled Union producers, one unrelated importer and to 69 known users in the Union.

(19) Complete questionnaire replies were received from the two potential analogue country producers, the three sampled Union producers, one unrelated importer and four users.

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

(a) Union producers:

— Grupa Azoty Zaklady Azotowe Pulawy SA, Poland,

— OCI Nitrogen BV, the Netherlands,

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— Borealis Agrolinz Melamine GmbH, Austria.

(b) Importers:

— Globe Chemicals GmbH, Germany.

(c) Users:

— Melamin d.d. Kocevje, Slovenia,

— Tinde d.o.o, Slovenia,

— ChemCom BV, the Netherlands.

(d) Producer in the market economy analogue country:

— Nissan Chemical Industries Ltd, Japan.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(21) The product concerned is melamine, currently falling within CN code 2933 61 00 originating in the PRC.

(22) Melamine is a white crystalline powder produced predominantly from urea and is used mainly in laminates, wood adhesives, moulding compounds and paper/textile treatments.

2. Like product

(23) The product concerned and melamine produced and sold on the domestic market of Japan, the analogue country, as well as melamine 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 the initiation of the review procedure all known Chinese exporting producers (71 companies or groups of companies) 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 procedure or decided to cooperate at any further stage of the procedure.

(27) The only reaction from China was a submission by the CCPIT, followed later by a hearing.

(28) The status of the CCPIT as an interested party was contested by the applicants. The applicants in their submission claimed that CCPIT is neither an exporter of the product concerned nor an association of such exporters and thus their comments should be disregarded in their entirety.

(29) The CCPIT (also known as China Chamber of International Commerce (CCOIC)) comprises amongst others enterprises and organisations representing the economic and trade sectors in China. It can be thus also treated as an association of exporters, including exporters of the product concerned. After definitive disclosure CCPIT has confirmed the presence of 9 melamine producers among the Chamber's members. Furthermore, according to its Articles of Association, the responsibilities of CCPIT include organising, assisting or acting on behalf of Chinese enterprises and individuals in third countries procedures such as anti-dumping. Taking into account the above, the Commission treated CCPIT as an interested party as in previous anti-dumping proceedings[(6)].

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

(a) Analogue country

(30) According to Article 2(7)(a) of the basic Regulation, normal value has to be 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').

(31) In the original investigation, the Commission chose Indonesia as an analogue country. However, in 2011, the production facility of the cooperating Indonesian producer was closed. As the company in question was the only producer of melamine in Indonesia, this country could not be further taken into account as a potential analogue country.

(32) In their request, the applicants proposed using the USA as an analogue country. Consequently, the applicants used constructed normal value from the US market for the preliminary calculation of the dumping margin in their request. However, taking into account that there is only one domestic producer of melamine in the USA, currently protected by a very high level of anti-dumping and countervailing measures, the Commission decided to look for an alternative analogue country despite the fact that the US producer was willing to cooperate and replied to the questionnaire.

(33) The Notice of Initiation envisaged also the use of other countries producing melamine as a potential analogue country, namely India, Iran, Japan, Qatar, Russia and Trinidad & Tobago. Following the initiation of the current review procedure the Commission contacted eight companies located in those countries. Only one company, the Japanese Nissan Chemical Industries Ltd, agreed to cooperate as an analogue country producer and replied to the questionnaire which was subsequently verified on spot.