Commission Implementing Regulation (EU) 2017/94 of 19 January 2017 imposing a definitive anti-dumping duty on imports of sodium gluconate 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) 2017/94

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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)] (‘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 by Council Implementing Regulation (EU) No 965/2010[(2)], imposed a definitive anti-dumping duty on imports of sodium gluconate with a Customs Union and Statistics (CUS) number 0023277-9 and a Chemical Abstracts Service (CAS) registry number 527-07-1, currently falling within CN code ex 2918 16 00 (TARIC code 2918 16 00 10) (‘sodium gluconate’) and originating in the People's Republic of China (‘the PRC’ or ‘the country concerned’).

(2) The original measures took the form of an *ad valorem* duty established at 53,2 % with the exception of Shandong Kaison Biochemical Co., Ltd (5,6 %) and Qingdao Kehai Biochemistry Co., Ltd (27,1 %).

1.2. Request for an expiry review

(3) Following the publication of a notice of impending expiry[(3)] of the existing measures, the Commission received on 1 July 2015 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009[(4)].

(4) The request was lodged by the two Union producers, Jungbunzlauer S.A and Roquette Italia S.p.A. (‘the applicants’).

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/94. (See end of Document for details)

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

1.3. **Initiation**

(6) On 27 October 2015, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of sodium gluconate originating in the PRC on the basis of Article 11(2) of Regulation (EC) No 1225/2009. It published a Notice of Initiation in the *Official Journal of the European Union*[(5)] ('the Notice of Initiation').

1.4. **Analogue country**

(7) The Commission stated in the Notice of Initiation that it envisaged using the United States of America ('USA') as a third market economy country ('analogue market'), as in the original investigation, within the meaning of Article 2(7)(a) of the basic Regulation. The Commission invited parties to make comments on the appropriateness of this choice. None of the parties provided any comments.

(8) The Commission sought information concerning producers of sodium gluconate in other potential analogue countries and contacted Canada, India, Japan, Pakistan, Serbia, South Africa, South Korea, Switzerland and USA inviting all known producers of sodium gluconate in these countries to provide the necessary information. One Canadian company replied saying that it was not a producer of sodium gluconate but a trader. Only one American producer submitted a questionnaire reply and accepted a verification visit.

1.5. **Interested parties**

(9) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed known Union producers, known exporting producers, the Chinese authorities, known importers and users about the initiation of the investigation and invited them to participate.

(10) Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limits set out in the Notice of Initiation. All interested parties, who requested so and showed that there were particular reasons why they should be heard, were granted a hearing. Interested parties were also granted an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

(a) ***Sampling***

(11) In its 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

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/94. (See end of Document for details)*

(12) To decide whether sampling is 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 asked 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.

(13) Only one exporting producer in the country concerned provided the requested information and agreed to be included in the sample. Therefore, sampling was not necessary.

Sampling of importers

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

(15) Two unrelated importers provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary.

(b) ***Replies to the questionnaire***

(16) The Commission sent questionnaires to two Union producers, two unrelated importers, eight known users, ten wholesalers, the Chinese exporting producer that came forward during the sampling exercise and one producer in the USA that was considered as the analogue market.

(17) Questionnaire replies were received from two Union producers, two unrelated importers, one user, five wholesalers, the Chinese exporting producer and the producer in the analogue market.

(c) ***Verification visits***

(18) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and 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 producers

— Jungbunzlauer SA, Marckolsheim, France and one related company

— Roquette Italy SpA, Cassano Spinola, Italy

Importers

— Ceda Chemicals Limited, Knutsford, United Kingdom

— Norkem Limited, Knutsford, United Kingdom

Exporting producer in the PRC

— Shandong Kaison Biochemical Co., Ltd (‘SKB’), Rizhao City, Shandong Province, the PRC

Producer in the analogue country

— PMP Fermentation Products, Inc, Peoria, United States of America.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/94. (See end of Document for details)*

1.6. **Investigation period and period considered**

(19) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 October 2014 to 30 September 2015 ('the review investigation period' or 'RIP'). The examination of 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').

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. **Product concerned**

(20) The product subject to this review is dry sodium gluconate, with a Customs Union and Statistics (CUS) number 0023277-9 and a Chemical Abstracts Service (CAS) registry number 527-07-1 and originating in the PRC ('the product under review' or 'sodium gluconate')), currently falling within CN code ex 2918 16 00 (TARIC code 2918 16 00 10).

(21) Dry sodium gluconate is used mainly in the construction industry as a set retarder and concrete plasticiser and in other industries as surface treatment for metals (removal of rust, oxides and fat) and for the cleaning of bottles and industrial equipment. The product can also be used in the food and pharmaceutical industries.

(22) The product concerned includes several types, defined in the questionnaire as product control numbers ('PCN'). Each PCN takes into account the purity, particle size and packaging, as established in the original investigation.

2.2. **Like product**

(23) The investigation has shown that dry sodium gluconate produced and sold by the Union industry in the Union, dry sodium gluconate produced and sold on the domestic market in the USA, which was selected as an analogue country as explained in recitals 60 to 62, dry sodium gluconate produced and sold on the domestic market in China and dry sodium gluconate produced in China and sold to the Union have essentially the same basic physical 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.

3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

3.1. **Preliminary remarks**

(25) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.

(26) As mentioned above in recital 13 only one Chinese exporting producer cooperated in the current investigation. This company covered the totality of the exports of sodium gluconate from the PRC into the Union during the RIP. Therefore, the

Commission considered that it has sufficient information for the assessment of the export price and the dumping margin during the RIP (section 3.2).

(27) However, this exporting producer only represented between 2 % and 7 % of the total production capacity and only between 5 % and 10 % of the total production of sodium gluconate in the PRC. Moreover, its exports to third countries ranged only between 23 % and 28 % of total exports from the PRC to third countries during the RIP (the exact weight of the sole cooperating Chinese exporting producer in the total Chinese production capacity, total production and total exports cannot be disclosed for confidentiality reasons). Therefore, and considering that none of the other Chinese producers of sodium gluconate in the PRC cooperated, the Commission considered that it did not have sufficient information for the examination of the likelihood of continuation or recurrence of dumping and use had to be made of facts available in accordance with Article 18 of the basic Regulation in order to assess the development of imports should measures be repealed (section 3.3).

(28) The Chinese authorities were duly informed that due to the low cooperation of the Chinese exporting producers, the Commission may apply Article 18 of the basic Regulation. No comments were received in this respect.

(29) The findings in section 3.3 were thus based on facts available. For this purpose, the information provided by the cooperating exporting producer, the request for the expiry review, the submission made by the applicants, Eurostat statistics, the data collected by Member States pursuant to Article 14(6) of the basic Regulation (the 'Article 14(6) database') and publicly available information on internet[(6)] were used. Regarding the Chinese Export Statistics Database, the coding structure for sodium gluconate covered other products not subject to the current investigation and therefore the volume of sodium gluconate in isolation could not be identified in the database. Therefore, this source of information could not be used.

3.2. Dumping in the Union during the review investigation period

3.2.1. *Normal value*

(30) In the original investigation Market Economy Treatment ('MET') was granted to the sole Chinese exporting producer cooperating in the current investigation (Shandong Kaison Biochemicals or 'SKB'). Therefore, the determination of the normal value for this exporting producer was based on its own production and sales data.

(31) The Commission first examined whether the total volume of domestic sales for the cooperating exporting producer 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 of the exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the RIP. The total sales volume of the cooperating exporting producer of the like product on the domestic market was thus representative.