# Commission Implementing Regulation (EU) 2015/706 of 30 April 2015 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Commission Implementing Regulation (EU) 2015/82 on imports of citric acid originating in the People's Republic of China by imports of citric acid consigned from Malaysia, whether declared as originating in Malaysia or not, and making such imports subject to registration

## COMMISSION IMPLEMENTING REGULATION (EU) 2015/706

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[(1)] (the basic Regulation) and in particular Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

### A. EX OFFICIO INITIATION

(1) The European Commission (the Commission) has decided, pursuant to Articles 13(3) and 14(5) of the basic Regulation to investigate on its own initiative the possible circumvention of the anti-dumping measures imposed on imports of citric acid originating in the People's Republic of China and to make imports of citric acid consigned from Malaysia, whether declared as originating in Malaysia or not, subject to registration.

### B. PRODUCT

(2) The product concerned by the possible circumvention is citric acid (including trisodium citrate dihydrate), falling within CN codes 2918 14 00 and ex 2918 15 00 and originating in the People's Republic of China (the product concerned).

(3) The product under investigation is the same as that defined in the previous recital, but consigned from Malaysia, whether declared as originating in Malaysia or not, currently falling within the same CN codes as the product concerned (the product under investigation).

### C. EXISTING MEASURES

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/706. (See end of Document for details)*

(4) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Commission Implementing Regulation (EU) 2015/82[(2)] (the existing measures).

D. **GROUNDS**

(5) The Commission has at its disposal sufficient *prima facie* evidence that the existing anti-dumping measures on imports of the product concerned originating in the People's Republic of China are being circumvented by imports of the product under investigation from Malaysia.

(6) The *prima facie* evidence at the Commission's disposal is as follows.

(7) The information at the Commission's disposal shows that a significant change in the pattern of trade involving exports from the People's Republic of China and Malaysia to the Union has taken place following the imposition of measures on the product concerned,[(3)] without sufficient due cause or economic justification for such a change other than the imposition of the duty.

(8) This change appears to stem from the consignment of the product concerned via Malaysia to the Union. However, the investigation covers any practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the anti-dumping duty.

(9) Furthermore, the Commission has at its disposal sufficient prima facie evidence that the remedial effects of the existing anti-dumping measures on the product concerned are being undermined both in terms of quantity and price. Significant volumes of imports of the product under investigation appear to have replaced imports of the product concerned. In addition, there is sufficient prima facie evidence that imports of the product under investigation are made at prices below the non-injurious price established in the investigation that led to the existing measures.

(10) Finally, the Commission has sufficient prima facie evidence that the prices of the product under investigation are dumped in relation to the normal value previously established for the product concerned.

E. **PROCEDURE**

(11) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the product under investigation, whether declared as originating in Malaysia or not, subject to registration, in accordance with Article 14(5) of the basic Regulation.

(a) **Questionnaires**

(12) In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the known exporters/producers and to the known associations of exporters/producers in Malaysia, to the known exporters/producers and to the known associations of exporters/producers in the People's Republic

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of China, to the known importers and to the known associations of importers in the Union and to the authorities of the People's Republic of China and Malaysia. Information, as appropriate, may also be sought from the Union industry.

(13) In any event, all interested parties should contact the Commission forthwith, but not later than within the time-limits set in Article 3 of this Regulation, and request a questionnaire within the time-limit set in Article 3(1) of this Regulation, given that the time-limit set in Article 3(2) of this Regulation applies to all interested parties.

(14) The authorities of the People's Republic of China and Malaysia will be notified accordingly of the initiation of the investigation.

(b) **Collection of information and holding of hearings**

(15) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) **Exemption of registration of imports or measures**

(16) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from registration or measures if the importation does not constitute circumvention.

(17) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers in Malaysia of citric acid, that can show that they are not related[(4)] to any producer subject to the existing measures[(5)] and that are found not to be engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers wishing to obtain an exemption should submit a request duly supported by evidence within the time-limit indicated in Article 3(3) of this Regulation.

F. **REGISTRATION**

(18) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation should be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount can be levied from the date on which registration of such imports consigned from Malaysia was imposed.

G. **TIME-LIMITS**

(19) In the interest of sound administration, time-limits should be stated within which:

— interested parties may make themselves known to the Commission, present their views in writing and submit questionnaire replies or any other information to be taken into account during the investigation,

— producers in Malaysia may request exemption from registration of imports or measures,

— interested parties may make a written request to be heard by the Commission.

(20) Attention is drawn to the fact that the exercise of most procedural rights set out in the basic Regulation depends on the party's making itself known within the time-limits laid down in Article 3 of this Regulation.

## H. NON-COOPERATION

(21) In cases in which any interested party refuses access to or does not provide the necessary information within the time-limits, or significantly impedes the investigation, findings, affirmative or negative, may be made in accordance with Article 18 of the basic Regulation, on the basis of the facts available.

(22) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available.

(23) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

(24) Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. The interested party should immediately contact the Commission.

## I. SCHEDULE OF THE INVESTIGATION

(25) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of the publication of this Regulation in the *Official Journal of the European Union*.

## J. PROCESSING OF PERSONAL DATA

(26) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EC) No 45/2001[6].

## K. HEARING OFFICER

(27) Interested parties may request the intervention of the Hearing Officer in trade proceedings. The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and requests by third parties to be heard. The Hearing Officer may organise a hearing with an individual interested party and mediate to ensure that the interested parties' rights of defence are being fully exercised.

(28) A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initial stage of the investigation the request must be submitted within 15 days of the date of publication of this Commission Regulation in the *Official Journal of the European*