Commission Implementing Regulation (EU) 2015/82 of 21 January 2015 imposing a definitive anti-dumping duty on imports of citric acid originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 and of partial interim reviews pursuant to Article 11(3) of Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) 2015/82

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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 9(4), 11(2), (3) and (5) thereof,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) The Council, following an anti-dumping investigation ('the original investigation'), by Regulation (EC) No 1193/2008[(2)], imposed a definitive anti-dumping duty on imports of citric acid currently falling within CN codes 2918 14 00 and ex 2918 15 00 originating in the People's Republic of China ('PRC') ('the original measures'). The measures took the form of an *ad valorem* duty ranging between 6,6 % and 42,7 %.

(2) The European Commission ('the Commission'), by Decision 2008/899/EC[(3)] accepted price undertakings offered by six Chinese exporting producers (including a group of exporting producers) together with the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters.

(3) The Commission, by Decision 2012/501/EU[(4)], withdrew the undertaking offered by one exporting producer, i.e. Laiwu Taihe Biochemistry Co. Ltd ('Laiwu').

1.2. Request for an expiry review

(4) Following the publication of a notice of impending expiry[(5)] of the original measures, the Commission received on 2 August 2013 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation. The request was lodged by SA Citrique Belge and Jungbunzlauer Austria AG ('the

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applicants') on behalf of producers representing 100 % of the Union production of citric acid.

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

1.3. **Request for partial interim review**

(6) The applicants also lodged a request for a partial interim review pursuant to Article 11(3) of the basic Regulation limited in scope to the examination of dumping as far as Laiwu is concerned. The applicants provided prima facie evidence showing that since the last investigation period Laiwu had increased production capacity and enlarged its product range.

(7) Given that Laiwu was granted market economy treatment in the original investigation, the applicants provided a dumping margin calculation based on a comparison between a constructed normal value (manufacturing costs, selling, general and administrative costs and profit) in the PRC in the alleged absence of representative domestic sales and Laiwu's export price to the Union. It indicated that the dumping margin appears to be higher than the current level of the measures. Therefore, the applicants alleged that the continued imposition of the measures at the existing level, which was based on the level of dumping previously established, would be insufficient to offset the effects of injurious dumping. The applicants also claimed that Laiwu may not be eligible for market economy treatment anymore.

1.4. **Initiation of an expiry review and interim reviews**

(8) On 30 November 2013, the Commission initiated an anti-dumping investigation with regard to imports into the Union of citric acid originating in the PRC ('the country concerned') and published a notice of initiation in the *Official Journal of the European Union*[6] ('the notice of initiation'). The initiation comprised of:

— an expiry review initiated on the basis of Article 11(2) of the basic Regulation,

— partial interim review limited to the examination of dumping of Laiwu, initiated on the basis of Article 11(3) of the basic Regulation,

— a partial interim review limited to the examination of the form of the measures, initiated on the initiative of the Commission on the basis of Article 11(3) of the basic Regulation, and

— a partial interim review limited to injury, initiated on the initiative of the Commission on the basis of Article 11(3) of the basic Regulation.

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 the applicants, the known exporting producers, the Chinese authorities, known importers and users about the initiation of the reviews and invited them to participate. In the notice of initiation, the Commission informed interested parties that it envisaged Canada as a third market economy country ('analogue country') within the meaning

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of Article 2(7)(a) of the basic Regulation. Therefore, the Commission also informed producers in Canada about the initiation and invited them to participate.

(10) Interested parties had 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.

1.6. **Sampling**

(11) In the notice of initiation, the Commission stated that it might sample exporting producers and importers in accordance with Article 17 of the basic Regulation.

1.6.1. *Sampling of importers*

(12) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the notice of initiation.

(13) Six unrelated importers provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three unrelated importers on the basis of the largest volume of imports into the Union. In accordance with Article 17(2) of the basic Regulation, it consulted all known importers concerned on the selection of the sample. None of them submitted comments.

1.6.2. *Sampling of exporting producers in the PRC*

(14) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in the PRC to provide all information specified in the notice of initiation. In addition, the Commission asked the Mission of the PRC to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(15) Nine exporting producers in the country concerned, of which two are related to each other, provided the requested information and agreed to be included in the sample. In view of the complexity of the case and the structure of the industry concerned, the Commission decided that sampling was not necessary. None of the exporting producers commented on sampling. Seven out of the nine exporting producers submitted questionnaire replies and two withdrew their cooperation.

1.7. **Market economy treatment ('MET') claim form**

(16) For the purposes of Article 2(7)(b) of the basic Regulation, the Commission sent the MET claim form to Laiwu.

1.8. **Replies to the questionnaire**

(17) The Commission sent questionnaires to the seven cooperating exporting producers to assess the likelihood of continuation or recurrence of dumping. The seven exporting producers replied. The Commission sent a separate questionnaire to Laiwu

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to assess the lasting nature of changed circumstances as far as dumping is concerned. The company replied.

1.9. **Verification visits**

(18) The Commission sought and verified all the information deemed necessary for a determination 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:

(a) *Union producers*

— SA Citrique Belge NV, Tienen, Belgium,

— Jungbunzlauer Austria AG, Vienna, Austria,

— Jungbunzlauer Ladenburg GmbH, Ladenburg, Germany;

(b) *Importers*

— Azelis SA, Luxembourg, Luxembourg,

— RFI Food Ingredients Handelsgesellschaft mbH, Düsseldorf, Germany;

(c) *Users*

— Bristol-Myers Squibb France SARL, Rueil Malmaison, France,

— Procter & Gamble International Operations, Petit Lancy, Switzerland,

— Reckitt Benckiser (ENA) BV, Schiphol, the Netherlands;

(d) *Exporting producers in the PRC*

— COFCO Biochemical (Anhui) Co., Ltd, Bengbu,

— Laiwu Taihe Biochemistry Co., Ltd, Laiwu,

— RZBC Group, Rizhao,

— Weifang Ensign Industry Co., Ltd, Changle, Weifang;

(e) *Producers in the analogue country*

— Jungbunzlauer Canada Inc., Port Colborne, Canada.

1.10. **Review investigation period and period considered**

(19) The investigation of dumping and injury covered the period from 1 October 2012 to 30 September 2013 (‘the review investigation period’ or ‘RIP’). The examination of trends relevant for the assessment of injury covered the period from 1 January 2010 to the end of the review investigation period (‘the period considered’).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. **Product concerned**

(20) The product concerned is citric acid (including trisodium citrate dihydrate) originating in the PRC, currently falling within CN codes 2918 14 00 and ex 2918 15 00 (‘the product concerned’).

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(21) Citric acid is used as an acidulant and pH regulator in a wide range of applications, for example beverages, food, detergents, cosmetics and pharmaceuticals. Its main raw materials are sugar/molasses, tapioca, corn or glucose (obtained from cereals) and different agents for the submerged microbial fermentation of carbohydrates.

2.2. **Like product**

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

(1) the product concerned;

(2) the product produced and sold on the domestic market of the PRC;

(3) the product produced and sold on the domestic market of Canada, which served as an analogue country; and

(4) the product produced and sold in the Union by the Union industry.

(23) The Commission decided that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

3. **DUMPING**

3.1. **Likelihood of continuation of dumping in the framework of the expiry review**

(24) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether dumping was currently taking place and whether dumping was likely to continue or recur upon a possible expiry of the measures in force on imports from the PRC.

3.1.1. *Normal value*

— Analogue country

(25) Since the PRC is considered to be a non-market economy country, normal value was determined on the basis of the price in a market economy third country, in accordance with Article 2(7)(a) of the basic Regulation. For this purpose the analogue country had to be selected (see recital 9 above).

(26) In the notice of initiation, the Commission informed interested parties that it envisaged Canada as an appropriate analogue country and invited interested parties to comment. None of them submitted comments.

(27) Canada served as analogue country in the original investigation. As the Canadian company willing to cooperate was the sole producer of citric acid in Canada and related to one of the complainant producers, the Commission explored possibilities for cooperation from other known producing countries like the USA, Brazil, Thailand and Ukraine. One Brazilian and one Thai company showed willingness to cooperate