Commission Implementing Regulation (EU) No 1347/2014 of 17 December 2014 repealing the definitive countervailing duty on imports of sulphanilic acid originating in India following an expiry review pursuant to Article 18 of Council Regulation (EC) No 597/2009

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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 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community[(1)] and in particular Articles 14 and 18 thereof,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) In July 2002, by Regulation (EC) No 1338/2002[(2)], the Council imposed a definitive countervailing duty of 7,1 % on imports of sulphanilic acid originating in India (the original investigation).

(2) By Regulation (EC) No 1339/2002[(3)], the Council imposed a definitive anti-dumping duty of 21 % on imports of sulphanilic acid originating in the People's Republic of China (the PRC) and a definitive anti-dumping duty of 18,3 % on imports of sulphanilic acid originating in India.

(3) By Decision 2002/611/EC[(4)] the Commission accepted a price undertaking with regard to both the anti-dumping and anti-subsidy measures on the imports from India offered by one Indian exporting producer, namely Kokan Synthetics and Chemicals Pvt. Ltd (Kokan).

(4) In March 2004, by Commission Decision 2004/255/EC[(5)], the Commission repealed Decision 2002/611/EC following the voluntary withdrawal of the undertaking by Kokan.

(5) By Decision 2006/37/EC[(6)] the Commission accepted a new undertaking with regard to both the anti-dumping and anti-subsidy measures on the imports from India offered by Kokan. Regulations (EC) No 1338/2002 and (EC) No 1339/2002 were amended by Council Regulation (EC) No 123/2006[(7)] accordingly.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1347/2014. (See end of Document for details)*

(6) By Regulation (EC) No 1000/2008[8], the Council imposed the anti-dumping duties on imports of sulphanilic acid originating in the PRC and India following an expiry review of the measures. By Regulation (EC) No 1010/2008[9], the Council imposed definitive countervailing duties on imports of sulphanilic acid originating in India and amended the level of the anti-dumping duties on Indian imports of sulphanilic acid following an expiry and an interim review.

2. **Request for an expiry review**

(7) Following the publication of a notice of impending expiry[10] of the definitive countervailing measures in force, the Commission received on 1 July 2013 a request for the initiation of an expiry review of these measures pursuant to Article 18 of Regulation (EC) No 597/2009 (the basic Regulation). The request was lodged by CUF — Quimicos Industriais ('the applicant' or 'CUF') the sole producer of sulphanilic acid in the Union thus representing 100 % of the Union production.

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

3. **Initiation of an expiry review**

(9) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 16 October 2013, by a notice published in the *Official Journal of the European Union*[11] (the Notice of Initiation), the initiation of an expiry review pursuant to Article 18 of the basic Regulation.

4. **Parallel investigations**

(10) By Notice of Initiation published in the *Official Journal of the European Union*[12] on 16 October 2013 the Commission also initiated an expiry review investigation pursuant to Article 11(2) of the Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community[13] concerning imports of sulphanilic acid originating, inter alia, in India.

5. **Investigation**

5.1. *Review investigation period and period considered*

(11) The investigation of a continuation or recurrence of subsidisation covered the period from 1 October 2012 to 30 September 2013 ('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 2010 to the end of the review investigation period (the period considered).

5.2. *Parties concerned*

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1347/2014. (See end of Document for details)*

(12) The Commission officially advised the applicant, the exporting producers in India, the importers, the users known to be concerned, and the representatives of the exporting country of the initiation of the expiry review. The 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.

(13) The sole Union producer, being the only interested party who so requested, was granted a hearing.

5.3. *Sampling*

(14) In view of the apparent large number of exporting producers in India and of unrelated importers in the Union, sampling was envisaged in the Notice of initiation in accordance with Article 27 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested to make themselves known to the Commission within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of Initiation.

(15) The Commission received two sampling replies from Indian exporting producers. Therefore, no sampling was applied.

(16) One unrelated importer replied to the sampling form however, it did not import the product concerned from the country concerned and did not provide a questionnaire reply. Therefore no sampling was applied.

(17) Since there is only one Union producer, sampling was not applied for the Union producers.

5.4. *Investigation*

(18) The Commission sought and verified all the information deemed necessary for a determination of the likelihood of continuation of subsidisation, likelihood of continuation or recurrence of injury and for a determination of the Union interest. The Commission sent questionnaires to the sole Union producer, to the two exporting producers in India, to the Government of India (GOI), to known importers and to Union users.

(19) Out of the two Indian exporting producers only one submitted a complete reply. This Indian producer represented a major part of the total Indian exports to the Union during the review investigation period.

(20) The Commission also carried out consultations in Delhi with the GOI, Government of Maharashtra (GOM), Government of Gujarat (GOG) and the Reserve Bank of India (RBI).

(21) Furthermore, verification visits were carried out at the premises of the following companies:

(a) *Union Producer:*

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1347/2014. (See end of Document for details)*

— CUF — Quimicos Industriais, Estarreja, Portugal

(b) *Exporting producers:*

— Kokan Synthetics & Chemicals Pvt. Ltd, Khed, India

(c) *Union users:*

— Blankophor GmbH, Leverkusen, Germany

— Hovione Farmaciencia SA, Loures, Portugal

— IGCAR Chemicals, S.L., Rubi, Spain.

B. PRODUCT CONCERNED AND LIKE PRODUCT

(22) The product concerned is sulphanilic acid currently classifiable within CN code ex 2921 42 00 (TARIC code 2921 42 00 60). There are two grades of sulphanilic acid, which are determined according to their purity: a technical grade and a purified grade. In addition, the purified grade is sometimes commercialised in the form of a salt of sulphanilic acid. Sulphanilic acid is used as a raw material in the production of optical brighteners, concrete additives, food colorants and speciality dyes. Limited use by the pharmaceutical industry was noted as well. Though it is not contested that both grades have the same basic physical, chemical and technical characteristics and therefore deemed to be one single product, it is important to note that the investigation showed that in practical terms inter-changeability is limited. In particular users who rely on purified grade sulphanilic acid could only use technical grade in case they could further purify it themselves. Those users who need or prefer technical grade sulphanilic acid could in theory use purified grade, however due to the price difference (20 %-25 %) this is economically not a viable solution.

(23) Sulphanilic acid is a pure commodity product and its basic physical, chemical and technical characteristics are identical whatever the country of origin. The product concerned and the products manufactured and sold by the exporting producer in India on its domestic market and to third countries, as well as those manufactured and sold by the Union producer on the Union market have thus been found to have the same basic physical and chemical characteristics and essentially the same uses, and are therefore considered to be like products within the meaning of Article 2 of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF SUBSIDISATION

1. Introduction

(24) Cooperation from the Indian exporters was limited to one exporting producer. In the absence of cooperation from other producers, the amount of countervailable subsidies had to be determined on the basis of the facts available: the replies of the cooperating company, who accounted for major proportion of exports from India to the Union, and on the information provided by the Indian authorities.

(25) On the basis of the information contained in the review request and the replies to the Commission's questionnaire, the following schemes, which allegedly involve the granting of subsidies, were investigated:

— Subsidy schemes investigated in the original investigation:

— Nationwide Schemes:

(a) Export Processing Zones Scheme (EPZ)/Special Economic Zones Scheme (SEZS)/Export Oriented Units Scheme (EOUS)

(b) Duty Entitlement Passbook Scheme (DEPBS)

(c) Export Promotion Capital Goods Scheme (EPCGS)

(d) Income Tax Exemption Scheme (ITES)

(e) Advance Authorisation Scheme (AAS)

— Regional Schemes:

(f) Package Scheme of Incentives (PSI) of the Government of Maharashtra

— Subsidy schemes not investigated in the original investigation but investigated in the first expiry review and parallel interim review:

— Nationwide Schemes:

(g) Export Credit Scheme (ECS)

— Subsidy schemes not investigated in the original investigation or/and in the previous reviews:

— Nationwide Schemes:

(h) Focus Product Scheme (FPS)

(i) Duty Free Import Authorisation (DFIA)

(j) Duty Drawback Scheme (DDS)

(k) Focus Market Scheme (FMS)

(l) Status Holder Incentive Scrip (SHIS)

(m) Capital Infusions

— Regional Schemes:

(n) Regional Schemes of the Government of Gujarat

(26) The schemes (a), (b), (c), (e), (h), (i), (k) and (l) specified above are based on the Foreign Trade (Development and Regulation) Act 1992 (No 22 of 1992) which entered into force on 7 August 1992 (Foreign Trade Act). The Foreign Trade Act authorises the GOI to issue notifications regarding the export and import policy. These are summarised in Foreign Trade Policy documents which are issued by the Ministry of Commerce every five years and updated regularly. The Foreign Trade Policy document relevant to the RIP of this investigation is 'Foreign Trade Policy 2009-2014' (FTP 09-14). In addition, the GOI also sets out the procedures governing the FTP 09-14 in