Commission Implementing Regulation (EU) No 1313/2014 of 10 December 2014 imposing a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits (namely mandarins, etc.) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009

COMMISSION IMPLEMENTING REGULATION (EU) No 1313/2014

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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 Article 11(2) thereof,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) By Regulation (EC) No 1355/2008[(2)] the Council imposed a definitive anti-dumping duty on imports of certain prepared or preserved citrus fruits originating in the People's Republic of China (China). The measures took the form of a specific duty per company ranging from 361,4 EUR/tonne to 531,2 EUR/tonne net product weight.

(2) These measures have been annulled by the Court of Justice of the European Union on 22 March 2012[(3)] but were re-imposed on 18 February 2013 by Council Implementing Regulation (EU) No 158/2013[(4)].

1.2. Request for an expiry review

(3) Following the publication of a Notice of impending expiry of the definitive anti-dumping measures in force[(5)], the Commission received on 12 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 Federación Nacional de Asociaciones de Transformados Vegetales y Alimentos Procesados (FENAVAL) on behalf of producers representing more than 75 % of the total Union production of certain prepared or preserved citrus fruits.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) No 1313/2014. (See end of Document for details)*

(4) The request was based on the grounds that the expiry of the definitive anti-dumping measures would be likely to result in continuation of dumping and recurrence of injury to the Union industry.

1.3. **Initiation of an expiry review**

(5) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 25 October 2013, by a notice published in the *Official Journal of the European Union*[6] (the Notice of Initiation), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

1.4. **Investigation**

1.4.1. *Review investigation period and period considered*

(6) The investigation of a continuation of dumping covered the period from 1 October 2012 to 30 September 2013 (the review investigation period). The examination of the trends relevant for the assessment of the likelihood of recurrence of injury covered the period from 1 October 2009 to the end of the review investigation period (the period considered).

1.4.2. *Parties concerned by the investigation*

(7) The Commission officially advised the following parties of the initiation of the expiry review: the applicant, the producers in the Union and their relevant associations, the known exporting producers in China and in the potential analogue countries, unrelated importers in the Union and their relevant associations, suppliers to producers in the Union and their relevant associations, an association of consumers in the Union known to be concerned and the representatives of the exporting country. These 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.

(8) In view of the apparent large number of exporting producers in China and of unrelated importers in the Union, it was considered appropriate to examine whether sampling should be used, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, those parties were requested to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of Initiation.

(9) Since only one group of exporting producers in China came forward with the requested information, it was not considered necessary to select a sample of exporting producers.

(10) With regard to unrelated importers, 32 were identified and invited to provide sampling information. Seven of them came forward and provided the information necessary for the sampling selection. Out of them, three were selected to be part of the

sample, but only two confirmed within the deadline their willingness to be part of the sample exercise.

(11) On the basis of the above, the Commission sent questionnaires to interested parties and to those who had made themselves known within the deadlines set in the Notice of Initiation. Replies were received from five Union producers, the cooperating exporting producer in China, two unrelated importers, eight suppliers to the Union producers, one association of suppliers to the Union producers and one producer in the analogue country.

(12) Two associations of importers came forward as interested parties. Five unrelated importers also submitted comments.

(13) With regard to the analogue country producers, four companies were identified and invited to provide necessary information. Only one of these companies provided the requested information and agreed with the verification visit.

(14) The Commission verified all the information it deemed necessary for a determination of the likelihood of a continuation of dumping and likelihood of recurrence of injury and of the Union interest. Verification visits were carried out at the premises of the following interested parties:

(a) Union producers:
- Halcon Foods S.A.U., Murcia, Spain
- Conservas y Frutas S.A., Murcia, Spain
- Agricultura y Conservas S.A., Algemesí (Valencia), Spain
- Industrias Videca S.A., Villanueva de Castellón (Valencia), Spain

(b) Exporting producer in China:
- Zhejiang Taizhou Yiguan Food Co., Ltd, China and its related company Zhejiang Merry Life Food Co.,Ltd

(c) Unrelated importers in the Union:
- Wünsche Handelsgesellschaft International mbH & Co KG, Hamburg, Germany
- I. Schroeder KG (GmbH & Co), Hamburg, Germany

(d) Producer in the analogue country:
- Frigo-Pak Gida Maddeleri Sanayi Ve Ticaret A.S., Turkey

1.5. **Disclosure of the essential facts and the hearings**

(15) On 13 October 2014, the Commission made the disclosure of the essential facts and considerations on the basis of which it intended to impose anti-dumping duties (final disclosure). Subsequent to the final disclosure, several interested parties made written submissions including their views on the definitive findings. The parties who so requested were granted an opportunity to be heard. Three importers requested and were afforded a joint hearing in the presence of the Hearing Officer in trade proceedings.

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One European association of traders requested and was afforded a hearing with the Commission services.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(16) The product concerned by this review is the same as the one in the original investigation, that is prepared or preserved mandarins (including tangerines and satsumas), clementines, wilkings and other similar citrus hybrids, not containing added spirit, whether or not containing added sugar or other sweetening matter, and as defined under CN heading 2008, originating in the People's Republic of China (the product concerned), currently falling within CN codes 2008 30 55, 2008 30 75 and ex 2008 30 90.

(17) The product concerned is obtained by peeling and segmenting certain varieties of small citrus fruit (mainly satsumas) which are then packaged in a medium of sugar syrup, juice or water in various sizes to meet the specific demands of the different markets.

(18) Satsumas, clementines and other small citrus fruit are commonly known by the collective name ‘mandarin’. Most of these different varieties of fruit are suitable to be used as fresh product or for processing. They are similar and their preparations or preservations are, thus, considered to be one single product.

2.2. Like product

(19) The Union's producers argued that the imported product and the Union product are alike on the following grounds:

— both products share the same or very similar physical properties such as taste, shape, size and texture,

— they are sold through the same or similar channels and they mainly compete on price,

— they both have the same or similar end-uses,

— they are easily interchangeable,

— they are classified under the same Combined Nomenclature codes for the tariff purposes.

(20) Certain importers claimed, on the other hand, that the imported product is of higher quality since it contains less broken segments (5 % maximum) as well as better taste, appearance and the structure than the Union product. It was also claimed that the imported product differs in terms of smell from the Union product.

(21) The Commission investigated those claims and in view of the available data concluded that the claims of the Union's industry referred to in recital 19 are correct.

(22) As far as the claims made by the importers are concerned, they had to be rejected on the following grounds:

(a) some quality differences relating to the amount of broken segments, taste, appearance, smell and structure did not affect the basic characteristics of the product. The imported product is still interchangeable and serves the same or similar end-uses as the Union product. In fact, the Union producers sold their product, also with a higher proportion of broken segments, during the period considered both to the importers and to the same categories of users/consumers (for example supermarket chains and bakery industry suppliers), which were also served by the importers. In addition, one supermarket chain in the European Union also confirmed that it was selling the European and the Chinese origin product under the same brand and trademark;

(b) the maximum amount of 5 % broken segments is not an exclusive feature of the imported product only. In fact, the investigation revealed that Union producers offered a wide range of qualities with different percentages of broken segments, including proportions which contained maximum 5 % of broken segments. Some importers purchased the product which contained maximum 5 % of broken segments from the Union producers.

(23) Therefore, similarly to the original investigation, the imported product and the one produced by the Union industry are considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OF DUMPING

3.1. Preliminary remarks

(24) 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 of dumping.

(25) As mentioned in recital 9, due to the fact that only one group of companies cooperated, it was not necessary to select a sample of exporting producers in China. This company covered around 12 %-20 % (range given for reasons of confidentiality) of the imports of product concerned from China to the Union during the review investigation period.

3.2. Dumping of imports during the review investigation period

3.2.1. *Analogue country*

(26) In accordance with the provisions of Article 2(7)(a) of the basic Regulation, normal value had to be determined on the basis of the prices or constructed value in an appropriate market economy third country (the 'analogue country'), or the price from such a third country to other countries, including the Union, or, where those are not possible, on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.