Commission Implementing Regulation (EU) No 727/2014 of 30 June 2014 initiating a 'new exporter' review of Council Implementing Regulation (EU) No 1389/2011 imposing a definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China, repealing the duty with regard to imports from one exporter in this country and making these imports subject to registration

COMMISSION IMPLEMENTING REGULATION (EU) No 727/2014

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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(4) thereof,

After informing the Member States,

Whereas:

1. **REQUEST**

(1) The European Commission ('Commission') has received a request for a 'new exporter' review pursuant to Article 11(4) of the basic Regulation.

(2) The request was lodged on 4 January 2014 by Juancheng Kangtai Chemical Co. Ltd ('the applicant'), an exporting producer in the People's Republic of China ('PRC') of trichloroisocyanuric acid.

2. **PRODUCT**

(3) The product under review is trichloroisocyanuric acid and preparations thereof (TCCA), also referred to as 'symclosene' under the international non-proprietary name (INN), currently falling within CN codes ex 2933 69 80 and ex 3808 94 20 (TARIC codes 2933 69 80 70 and 3808 94 20 20), and originating in the PRC ('the product under review').

3. **EXISTING MEASURES**

(4) The measures currently in force are a definitive anti-dumping duty imposed by Council Implementing Regulation (EU) No 1389/2011[(2)] under which imports into the Union of the product under review originating in the PRC, including the product

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produced by the applicant, are subject to a definitive anti-dumping duty of 42,6 % with the exception of several companies specially mentioned in Article 1(2) of that Regulation which are subject to individual duty rates.

4. GROUNDS

(5) The applicant claims that it did not export the product under review to the Union during the period of investigation on which the anti-dumping measures were based, i.e. the period from 1 April 2003 to 31 March 2004 ('the original investigation period').

(6) Furthermore, the applicant claims that it is not related to any of the exporting producers of the product under review which are subject to the above-mentioned anti-dumping measures.

(7) The applicant further claims that it has begun exporting the product under review to the Union after the end of the original investigation period.

5. PROCEDURE

(8) Union producers known to be concerned have been informed of the request for a review and have been given an opportunity to comment.

(9) Having examined the evidence available, the Commission concludes that there is sufficient evidence to justify the initiation of a 'new exporter' review, pursuant to Article 11(4) of the basic Regulation, with a view to determine the applicant's individual margin of dumping and, should dumping be found, the level of the duty to which its imports of the product under review into the Union shall be subject.

(10) If it is determined that the applicant fulfils the requirements to have an individual duty established, it may be necessary to amend the rate of duty currently applicable to imports of the product under review from companies not individually mentioned in Article 1(2) of Implementing Regulation (EU) No 1389/2011.

(a) Questionnaires

(11) In order to obtain information it deems necessary for its investigation, the Commission will send a questionnaire to the applicant.

(b) Collection of information and holding of hearings

(12) All interested parties are hereby invited to make their views known in writing and to provide supporting evidence.

(13) Furthermore, the Commission may hear interested parties, provided that they make a request in writing showing that there are particular reasons why they should be heard.

(c) Selection of the market economy country

(14) Since the applicant expressly waived the right to claim that market economy conditions prevail for it, normal value shall be determined on the basis of Article 2(7)(a)

of the basic Regulation. Therefore, an appropriate market economy country will be used for the purpose of establishing normal value in respect of the PRC. The Commission envisages using Japan again for this purpose as was done in the investigation which led to the imposition of measures on imports of the product under review from the PRC. Interested parties are hereby invited to comment on the appropriateness of this choice within the specific time limit set in Article 4(3) of this Regulation. According to the information available to the Commission, other market economy suppliers of the Union may be located, inter alia, in Switzerland, Malaysia and Indonesia. The Commission will examine whether there is production and sales of the product under investigation in those market economy third countries for which there are indications that production of the product under investigation is taking place.

6. REPEAL OF THE DUTY IN FORCE AND REGISTRATION OF IMPORTS

(15) Pursuant to Article 11(4) of the basic Regulation, the anti-dumping duty in force should be repealed with regard to imports of the product under review which are produced and sold for export to the Union by the applicant. At the same time, such imports should be made subject to registration in accordance with Article 14(5) of the basic Regulation, in order to ensure that, should the review result in a finding of dumping in respect of the applicant, anti-dumping duties can be levied retroactively to the date of the initiation of the review. The amount of the applicant's possible future liabilities cannot be estimated at this stage of the proceeding.

7. TIME-LIMITS

(16) 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 any information to be taken into account during the investigation,

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

— interested parties may comment on the appropriateness of Japan which is envisaged as a market-economy country for the purpose of establishing normal value,

— 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 indicated in Article 4 of this Regulation.

8. COMMUNICATION WITH INTERESTED PARTIES

(17) Interested parties are invited to make all submissions and requests by e-mail including scanned powers of attorney and certification sheets, with the exception of voluminous replies which shall be submitted on a CD-ROM or DVD by hand or by registered mail. Their use of e-mail will constitute an agreement for the communication by e-mail and acceptance of the rules specified in the communication instructions with interested parties which are published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf. The interested parties must indicate their name, address, telephone and a valid e-mail

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address and they should ensure that the provided e-mail address is a functioning official business e-mail which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by e-mail only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by e-mail, interested parties should consult the communication instructions with interested parties referred to above.

(18) All written submissions, including the information requested in this Regulation, questionnaire replies and correspondence provided by interested parties on a confidential basis must be labelled as 'Limited' and, in accordance with Article 19(2) of Regulation (EC) No 1225/2009, must be accompanied by a non-confidential version, which must be labelled 'For inspection by interested parties'.

Commission's address for correspondence:

European Commission

Directorate-General for Trade

Directorate H

Office: N105 8/21

1049 Bruxelles/Brussel

BELGIQUE/BELGIË

E-mail: trade-tcca-review-bis@ec.europa.eu

9. NON-COOPERATION

(19) 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.

(20) 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.

(21) 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.

(22) 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.

10. SCHEDULE OF THE INVESTIGATION