Council Implementing Regulation (EU) No 1343/2013 of 12 December 2013 imposing a definitive anti-dumping duty on imports of peroxosulphates (persulphates) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

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THE COUNCIL OF THE EUROPEAN UNION,

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 9(4) and Article 11(2), (5) and (6) thereof,

Having regard to the proposal from the European Commission after consulting the Advisory Committee,

Whereas:

A. **PROCEDURE**

1. **Measures in force**

(1) Council Regulation (EC) No 1184/2007[(2)] imposed a definitive anti-dumping duty on imports of persulphates originating in the People's Republic of China ('the PRC'), Taiwan and the United States of America ('the original investigation' and 'the original measures'). The measures with regard to the PRC took the form of an *ad valorem* duty of 71,8 % for all companies except two Chinese exporting producers to whom individual duties were granted.

2. **Initiation of an expiry review**

(2) On 10 October 2012, the Commission announced by a notice ('Notice of initiation')[(3)], published in the *Official Journal of the European Union*, the initiation of an expiry review of the anti-dumping measures applicable to imports of persulphates originating in the PRC.

(3) The review was initiated following a substantiated request lodged by two European producers, RheinPerChemie GmbH & Co. KG and United Initiators GmbH & Co. KG ('the applicants'), representing 100 % of the total Union production of persulphates.

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 1343/2013. (See end of Document for details)*

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

3. Investigation

3.1. *Review investigation period and period considered*

(5) The investigation of a continuation or recurrence of dumping covered the period from 1 October 2011 to 30 September 2012 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2009 to the end of the RIP ('the period considered').

3.2. *Parties concerned by the investigation*

(6) The Commission officially advised the applicants, exporting producers in the PRC, unrelated importers and users known to be concerned, producers in the potential analogue countries and the representatives of the PRC of the initiation of the expiry review. 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.

(7) In view of the potentially large number of exporting producers in the PRC and unrelated importers in the Union involved in the investigation, sampling was envisaged in the Notice of Initiation, 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, the above parties were invited, under Article 17 of the basic Regulation, to make themselves known within 15 days of the publication of the notice of initiation and to provide the Commission with the information requested in the Notice of initiation.

(8) None of the importers made itself known.

(9) Only one exporting producer from the PRC replied to the questionnaire. Therefore, it was not necessary to select a sample of exporting producers.

(10) The Commission sent questionnaires to all parties known to be concerned and to those who made themselves known within the deadlines set in the Notice of initiation. Replies were received from two Union producers, one exporting producer in the PRC and one producer in Turkey, considered as a potential analogue country.

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

(a) *Union producers*

— RheinPerChemie GmbH & Co. KG, Germany

— United Initiators GmbH & Co. KG, Germany

(b) *Exporting producer in the PRC*

United Initiators (Shanghai) Co. Ltd, Shanghai[4]

B. PRODUCT CONCERNED AND LIKE PRODUCT

(12) The product concerned is the same as that covered by the original investigation, namely peroxosulphates (persulphates), including potassium peroxymonosulphate sulphate ('product concerned'), currently falling within CN codes 2833 40 00 and ex 2842 90 80.

(13) The product concerned is used as an initiator or as an oxidising agent in a number of applications. Some examples include its use as polymerisation initiator in the production of polymers, as an etching agent in the production of printed circuit boards, in hair cosmetics, in textile desizing, in paper manufacturing as a denture cleanser and as a disinfectant.

(14) The investigation confirmed that, as in the original investigation, the product concerned and that manufactured and sold on the domestic market of the PRC, as well as that produced and sold by the Union industry on the Union market have the same basic physical and technical characteristics and the same basic uses and are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

1. General remarks

(15) In accordance with Article 11(2) of the basic Regulation, it was 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 certain imports from the PRC.

(16) As explained in recital 9, only one Chinese exporting producer cooperated in the investigation and it did not export the product concerned to the Union during the RIP. As mentioned below in recital 22 and as explained in detail in recitals 51 to 53, the investigation showed that basically all imports from the PRC during the RIP were made by one exporter which was found not to be dumping in the original investigation, and which is not subject to the current review. Hence, no dumping analysis could be done in this case.

2. Development of imports in case the measures are repealed

(17) In order to assess the likelihood of recurrence of dumping, the information provided by the cooperating Chinese exporting producer, the information collected in accordance with Article 18 of the basic Regulation and facts available with regard to the non-cooperating exporting producers were taken into account. The facts available were found in the request for the expiry review, in the information published in the framework of an expiry review initiated in March 2013 by the United States of America (USA)[5], in the statistics available to the Commission, i.e. the monthly data transmitted

by Member States under Article 14(6) of the basic Regulation ('the 14.6 database') and in the Eurostat import data.

(a) *Prices and volume of imports into the Union from the PRC and other third countries*

(18) The data available in the investigation showed that basically all imports from the PRC during the RIP were made by one Chinese exporter which was not found to be dumping in the original investigation[6]. Those imports are thus not subject to anti-dumping measures. The prices of those imports remained below the Union industry prices during that period.

(19) Despite the fact that Chinese import prices into the Union increased by 29 % in the period considered, they were still low and were undercutting the price of the Union industry during the RIP. The sales prices of the Union industry in the Union market also increased but at a less pronounced rate of 7 %.

(20) The sole cooperating Chinese exporter which is subject to the current anti-dumping measures was not exporting the product concerned to the Union during the RIP. However, the investigation showed that it was exporting at dumped prices to third country markets and that its prices were even lower than those of the current imports from the PRC in the Union market. This is an indication that exporters in Chinaare continuing to practice dumping and that their prices are low.

(21) The Union market roughly consists of imports from three countries: China, Turkey and the USA, each representing between 8 % and 10 % of market share and two Union producers with a market share of around 65 to 75 %. The investigation showed that the USAcontinued to be present on the Union market and represented around one third of total imports during the RIP. The USimport prices were on average 10 % above the import prices from the PRC. This finding, combined with the observed undercutting of the Union industry's prices, indicates that the Chinese imports continued to exercise a downward pressure on the sales prices in the Union.

(22) As mentioned above in recital 18, Chinese imports during the RIP were made by one exporter which was found not to be dumping in the original investigation. Between 2009 and the RIP, the volume of those imports increased by 24 % and the corresponding market share increased from 8 % to 9,6 % of total Union consumption in the same period.

(23) It is noteworthy to recall that in the years 1995 to 2001 anti-dumping measures were imposed against persulphates from the PRC. As these measures were repealed, import volume from the PRC increased from less than 200 tonnes in 2001 to more than 4 000 tonnes in 2003 and more than doubled to almost 9 000 tonnes in 2006. In other words, Chinese imports took more than 20 % of the Union market in few years. Over the period 2003-2006, whilst consumption increased by 7 %, Chinese market share doubled. This shows that Chinese exporters are able to take considerable market share in the Union market in the absence of anti-dumping measures.

(24) In view of the above facts and considerations, in particular the Chinese reaction to the repeal of the measures in the Union market in 2001, the level of Chinese prices during the RIP and the continued dumping practices in third country markets, it is considered that there is a likelihood that in the short term low-priced Chinese imports would resume in large quantities into the Union market should the current measures be repealed.

(b) *Pricing behaviour of Chinese producers on other export markets*

(25) As mentioned in recital 16 above, the cooperating Chinese company did not export to the Union during the RIP, and it was not possible to compare its normal values on the domestic market with export prices to the Union. It was however assessed, as mentioned in recital 24 above, whether the company's exports to third countries were made at dumped prices during the RIP. Since the company was granted MET in the original investigation, normal values were established based on its own data.

(26) For the three types of the product concerned for which domestic sales were representative and made in the ordinary course of trade, average normal values were established on the basis of the prices paid by independent customers in the domestic market. For one type, normal value had to be constructed based on the cost of production, in accordance with Article 2(3) of the basic Regulation. The company's cost of manufacturing, selling, general and administrative costs (SG&A) and profit achieved on the domestic sales made in the ordinary course of trade in accordance with Article 2(6) of the basic Regulation were used to establish the normal value of that type.

(27) The comparison between the normal weighted average value and the weighted average export price, on an ex-works basis to third countries established on the basis of the reported and verified data, showed a weighted average dumping margin of 9,4 %.

(28) With regard to pricing behaviour, the existence of the anti-dumping measures in India and in the USAis also a clear indication of dumping practices by Chinese exporting producers on other markets.

(c) *Attractiveness of the Union market*

(29) The investigation showed that the cooperating Chinese company exported to a wide variety of third countries such as Brazil, Indonesia, Malaysia, South Africa, South Korea, Taiwan, Thailand and the United Arab Emirates. The exports prices of the cooperating Chinese company to third markets were thus compared to the level of Union industry sales prices and the import price for the PRC during the RIP in the Union market. This comparison showed that the cooperating Chinese exporter was significantly undercutting, up to 40 %, the prices of the Union industry during the RIP.

(30) This analysis shows on the one hand, that prices in the Union market are higher and thus very attractive, and, on the other, that prices offered by other Chinese exporter are lower than the current Chinese import price in the Union market.