Council Implementing Regulation (EU) No 325/2012 of 12 April 2012 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of oxalic acid originating in India and the People's Republic of China

COUNCIL IMPLEMENTING REGULATION (EU) No 325/2012

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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) thereof,

Having regard to the proposal submitted by the European Commission (the Commission) after having consulted the Advisory Committee,

Whereas:

1. **PROCEDURE**

1.1. *PROVISIONAL MEASURES*

(1) The Commission, by Regulation (EU) No 1043/2011[(2)] ('the provisional Regulation') imposed a provisional anti-dumping duty on imports of oxalic acid originating in India and the People's Republic of China ('the PRC'). The provisional anti-dumping duties ranged from 14,6 % to 52,2 %.

(2) The proceeding was initiated as a result of a complaint lodged on 13 December 2010 by the European Chemical Industry Council (CEFIC) on behalf of Oxaquim S.A. ('the complainant'), representing a major proportion, in this case more than 25 %, of the total Union production of oxalic acid.

(3) As set out in recital 9 of the provisional Regulation, the investigation of dumping and injury covered the period from 1 January 2010 to 31 December 2010 ('investigation period' or 'IP'). The examination of the trends relevant for the assessment of injury covered the period from 1 January 2007 to the end of the investigation period ('period considered').

1.2. *SUBSEQUENT PROCEDURE*

(4) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ('provisional disclosure'), several interested parties made written submissions making

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Regulation (EU) No 325/2012. (See end of Document for details)*

their views known on the provisional findings. The parties who so requested were granted an opportunity to be heard. In particular, one exporting producer from India requested and was afforded a hearing in the presence of the Hearing Officer of the Directorate-General for Trade.

(5) The Commission continued to seek information it deemed necessary for its definitive findings.

(6) Recital 150 of the provisional Regulation invited Chinese companies which had not yet made themselves known but considered that an individual duty should be established for them to come forward within 10 days from publication. No Chinese company did so.

(7) Subsequently, all parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of oxalic acid originating in India and the PRC and the definitive collection of the amounts secured by way of the provisional duty ('final disclosure'). All parties were granted a period within which they could make comments on this final disclosure.

(8) The oral and written comments submitted by the interested parties were considered and were taken into account where appropriate.

1.3. *PARTIES CONCERNED BY THE PROCEEDING*

(9) In the absence of any comments with regard to the parties concerned by the proceeding, recitals 3 to 8 of the provisional Regulation are hereby confirmed.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. *PRODUCT CONCERNED*

(10) The product concerned is as described in recitals 10 and 11 of the provisional Regulation, i.e. oxalic acid, whether in dihydrate (CUS number 0028635-1 and CAS number 6153-56-6) or anhydrous form (CUS number 0021238-4 and CAS number 144-62-7), and whether or not in aqueous solution, currently falling within CN code ex 2917 11 00 and originating in India and the PRC.

(11) There are two types of oxalic acid: unrefined oxalic acid and refined oxalic acid. Refined oxalic acid, which is produced in the PRC but not in India, is manufactured through a purification process of unrefined oxalic acid, the purpose of which is to remove iron, chlorides, metal traces and other impurities.

(12) Oxalic acid is used in a wide range of applications, for example as a reducing and bleaching agent, in pharmaceutical synthesis and in the manufacture of chemicals.

2.2. *LIKE PRODUCT*

(13) The investigation has shown that oxalic acid produced and sold by the Union industry in the Union, oxalic acid produced and sold on the domestic market of India and the PRC and oxalic acid imported into the Union from India and the PRC have

essentially the same basic physical and chemical characteristics and the same basic end uses.

(14) In the absence of any comments regarding the product concerned or like product, recitals 10 to 13 of the provisional Regulation are hereby confirmed.

3. **DUMPING**

3.1. *INDIA*

3.1.1. PRELIMINARY REMARK

(15) In recital 14 of the provisional Regulation, the Commission found that one Indian exporting producer could not be considered as a cooperating party and accordingly the findings for that company were made on facts available as set out in Article 18 of the basic Regulation.

(16) Following the disclosure of provisional findings to this company, Star Oxochem Pvt. Ltd, it provided additional explanations and clarifications in respect of the information submitted earlier in the investigation by the company. It also requested to be heard by the Commission and by the Hearing Officer of the Directorate-General for Trade. The company argued that, given that it had submitted a questionnaire response and bearing in mind that the Commission services had visited the premises of the company and also in light of the additional explanations and clarifications now provided, it would not be appropriate if it were to continue to be treated like exporting producers who had not cooperated in any way with the investigation.

(17) In light of the above, in particular the additional explanations and clarifications provided, the Commission's services consider that they can use part of the original information, namely data related to export prices, as they were found to be reliable. It follows from the above considerations that the provisional findings, as set out in recital 14 of the provisional Regulation, are only partially maintained and findings in respect of this company are made partially on facts available and partially on its own export prices in accordance with Article 18(1) and (3) of the basic Regulation.

3.1.2. NORMAL VALUE

(18) No comments have been submitted in respect of the methodology to calculate normal value for India. Accordingly, the findings in recitals 15 to 18 of the provisional Regulation are confirmed with regard to the cooperating company.

(19) With regard to Star Oxochem, and taking into account the findings above (recitals 16-17), the normal value was established on the basis of facts available pursuant to Article 18(1) of the basic Regulation. Accordingly, the normal value for this company was based on the weighted average of a representative quantity of domestic sales by the other cooperating company, Punjab Chemicals.

3.1.3. EXPORT PRICE

(20) In the absence of any comments, the determination of the export price, as set out in recital 19 of the provisional Regulation, is confirmed with regard to Punjab Chemicals.

(21) In view of the conclusions as set out above in recitals 16-17, the export price for Star Oxochem is, pursuant to Article 2(8) of the basic Regulation, established on the basis of the prices actually paid or payable by independent customers for the product concerned when exported to the Union.

3.1.4. COMPARISON

(22) In the absence of any comments with regard to the comparison of the normal value and the export prices, recitals 20 and 21 of the provisional Regulation are confirmed as far as the cooperating producer, Punjab Chemicals, is concerned.

(23) With regard to Star Oxochem, adjustments have been made in accordance to Article 2(10) of the Basic Regulation based on the verified allowances of Punjab Chemicals.

3.1.5. DUMPING MARGIN

(24) With regard to the cooperating producer no comments have been made on the Commission's provisional findings. Therefore, the dumping margin, as set out in recitals 22 and 23 of the provisional Regulation, is confirmed.

(25) With regard to STAR Oxochem and taking into account the above considerations, the dumping margin, expressed as a percentage of the cif Union border price, duty unpaid is 31,5 %.

(26) In view of the low cooperation from India (below 80 %) it was provisionally considered that the highest dumped transaction of the cooperating party was the most appropriate method for establishing the country-wide dumping margin. This transaction is not exceptional in terms of either quantity or price and is therefore considered a representative sample that leads to a reasonable and proportionate result in relation to the dumping margin established for the cooperating producer.

(27) In view of the above the considerations the findings in recitals 24 and 25 of the provisional Regulation are confirmed.

(28) On this basis the definitive dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, for India are:

Company	**Definitive dumping margin**
Punjab Chemicals and Crop Protection Limited	22,8 %
Star Oxochem Pvt. Ltd	31,5 %
All other companies	43,6 %

3.2. *PEOPLE'S REPUBLIC OF CHINA*

3.2.1. MARKET ECONOMY TREATMENT (MET)/INDIVIDUAL TREATMENT (IT)

(29) As set out in the provisional Regulation, one group of Chinese companies requested MET or, failing that, IT, while another group of Chinese companies requested IT only. As set out in recitals 26 to 32 of the provisional Regulation, the claim for MET was rejected whereas both groups of companies were provisionally granted IT.

(30) No comments have been submitted in respect of these provisional finding and recitals 26 to 32 of the provisional Regulation are hereby confirmed.

3.2.2. ANALOGUE COUNTRY

(31) No comments were received on the provisional choice of analogue country. Accordingly, recitals 33 to 34 of the provisional Regulation are confirmed.

3.2.3. NORMAL VALUE

(32) It was explained in the provisional Regulation that the Commission established separate normal values for both *unrefined* and *refined* oxalic acid. While the normal value for unrefined oxalic acid was determined on the basis of the normal value established for India, the normal value for refined oxalic acid, which is not produced in India, was constructed on the basis of the manufacturing costs for Indian unrefined oxalic acid, adjusted with an uplift of 12 % to take into account additional manufacturing costs, plus SG&A and profit.

(33) Both cooperating producers from China contested the 12 % uplift for additional manufacturing costs, claiming that these additional costs have never been verified by the Commission and appear to be simply a rough estimation based on a methodology that has not been disclosed to them at the time of the provisional disclosure. One of the exporting producers claimed that it had estimated the additional manufacturing cost at only 5 % although it did not substantiate this claim with any supporting evidence.

(34) It is pointed out that the uplift has been determined on the basis of information provided by the cooperating Chinese exporting producers themselves. First, it is noted that the same company which now alleges that the additional manufacturing cost is only around 5 % had originally explicitly referred to additional costs of 10-15 % in its MET/IT claim form. Second, during the verification visits at the companies' premises, both cooperating producers confirmed that the additional costs for manufacturing refined oxalic acid as compared to unrefined oxalic acid were in the band of 10-12 %. Third, this latter level of 10-12 % additional manufacturing cost was also supported by calculations of the Union industry. In view of the information provided by the cooperating producers an uplift of 12 % was considered appropriate.