Commission Regulation (EU) No 1043/2011 of 19 October 2011 imposing a provisional anti-dumping duty on imports of oxalic acid originating in India and the People's Republic of China

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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 7 thereof,

After consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 26 January 2011, the European Commission (the Commission) announced, by a notice published in the *Official Journal of the European Union*[(2)] (notice of initiation), the initiation of an anti-dumping proceeding with regard to imports into the Union of oxalic acid originating in India and the People's Republic of China (PRC) or (the countries concerned).

(2) The anti-dumping proceeding was initiated following 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. The complaint contained prima facie evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the opening of a proceeding.

1.2. Parties concerned by the proceeding

(3) The Commission officially advised the complainant, other known Union producers, exporting producers and representatives of the countries concerned, importers, and users, and associations known to be concerned, of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. All interested parties who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 1043/2011. (See end of Document for details)*

(4) In view of the apparent high number of exporting producers in the countries concerned, sampling was envisaged in the notice of initiation for the determination of dumping and injury 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, all exporting producers in the countries concerned were asked to make themselves known to the Commission and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned during the period 1 January 2010-31 December 2010. Four Indian companies, one of which did not report any sales to the Union, and three groups of companies from the PRC replied to the sampling exercise. In view of the limited number of cooperating companies or groups of companies, sampling was not considered necessary for either India or the PRC and all parties were informed that samples would not be selected.

(5) Subsequently, one group of companies from the PRC withdrew from further cooperation with the investigation at an early stage. In addition, one Indian company refused the Commission access to its production plant for a verification visit. It was consequently deemed not to cooperate pursuant to Article 18(1) of the basic Regulation and was informed of the possible consequences thereof.

(6) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or to request individual treatment (IT), the Commission sent claim forms to the cooperating Chinese exporting producers, and the authorities of the PRC within the deadlines set out in the notice of initiation. One Chinese group of companies claimed MET pursuant to Article 2(7)(b) of the basic Regulation or, failing that, IT, while another group of companies requested IT only.

(7) Questionnaires were sent to all parties known to be concerned. Replies were received from three companies in India and by two groups of companies in the PRC, and the complainant. The other Union producer did not cooperate. Questionnaire replies were also received from three users and eight importers, among which all users and four importers were visited.

(8) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest and carried out verifications at the premises of the following companies:

(a) *Union producers*

— Oxaquim S.A. (Spain)

(b) *Users*

— OMG Kokkola (Finland)

— P.A.G. Srl (Italy)

— Third user asked to remain unknown

(c) *Importers*

— Brenntag BV (Netherlands)

— Brenntag Sp. z o.o. (Poland)

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— Norkem Limited (United Kingdom)

— Geratech Marketing (Belgium)

(d) *Exporting producers in India*

— Punjab Chemicals and Crop Protection Limited

— Star Oxochem Pvt. Ltd

(e) *Exporting producers in PRC*

— Shandong Fengyuan Chemicals Stock Co., Ltd; Shandong Fengyuan Uranus Advanced Material Co., Ltd and Qingdao Fengyuan Unite International Trade Co., Ltd (Shandong Fengyuan Group)

— Yuanping Changyuan Chemicals Co., Ltd; Shanxi Reliance Chemicals Co., Ltd and Tianjin Chengyi International Trading Co., Ltd (Shanxi Reliance Group)

1.3. **Investigation period**

(9) The investigation of dumping and injury covers 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).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. **Product concerned**

(10) The product concerned is 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. 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.

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

2.2. **Like product**

(12) 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 has essentially the same basic physical and chemical characteristics and the same basic end uses.

(13) Therefore, these products are provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

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3.1. **India**

3.1.1. *Preliminary remark*

(14) During the verification visit in India one company failed to provide requested information in either a timely manner or in the requested format. As a result the Commission was not able to verify the information submitted in response to the anti-dumping questionnaire. The company was informed in writing that it might not be considered as a cooperating party and that findings could be made on the basis of the facts available. In its response the company claimed mitigating circumstances which, however, were not such as to lead to a different conclusion. Consequently, Article 18 has been applied to this company and findings made on the basis of facts available. Accordingly, only one exporting producer from India is deemed to have cooperated with the Commission in the current investigation.

3.1.2. *Normal value*

(15) According to Article 2(2) of the basic Regulation the Commission first examined whether the domestic sales of the like product to independent customers by the exporting producer were representative. As these sales constituted more than 5 % of its sales volume of the product concerned to the Union, it is concluded that the overall sales of the like product were representative.

(16) The Commission subsequently examined whether the domestic sales of the exporting producer could be regarded as having been made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of profitable domestic sales to independent customers of all sales of the like product.

(17) Where the profitable sales amount to at least 80 % of all sales, the normal value will be calculated on the basis of all sales, including the unprofitable ones. On the other hand, if the profitable sales account for less than 80 % but more than 20 % of all sales, and if the weighted average full cost is higher than the weighted average price, the normal value will be calculated on the basis of the profitable sales only. A sale is considered to be profitable where the unit price is equal to or above the cost of production.

(18) The Commission's analysis of domestic sales showed that 41 % of all sales of the product concerned were profitable and the weighted average full cost is higher than the weighted average price. Accordingly, the normal value is calculated as a weighted average price of the profitable sales only.

3.1.3. *Export price*

(19) The exporting producer in India exported the product concerned directly to independent customers in the Union. Therefore, pursuant to Article 2(8) of the basic Regulation, export prices are established on the basis of the prices actually paid or

payable by those independent customers for the product concerned when exported to the Union.

3.1.4. *Comparison*

(20) The comparison between normal value and export price is made on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price due allowances in the form of adjustments are made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.

(21) Accordingly, adjustments have been made for transport costs, insurance, handling and packaging costs, credit costs and commission.

3.1.5. *Dumping margin*

(22) In accordance with Articles 2(11) and 2(12) of the basic Regulation the dumping margin for the cooperating Indian producer is established on the basis of a comparison of the weighted average normal value with the weighted average export price.

(23) On this basis, the provisional dumping margin, expressed as a percentage of the cif Union border price, duty unpaid, is 22,8 % for Punjab Chemicals and Crop Protection Limited (PCCPL).

(24) In order to calculate the countrywide dumping margin applicable to all other exporting producers in India, the level of cooperation was established by comparing the volume of exports to the Union reported by the cooperating exporting producer with Eurostat statistics. Given that cooperation from India was low, i.e. 38 %, it is considered appropriate that the countrywide dumping margin applicable to all other exporters in India should be established on the basis of the most dumped transaction of the cooperating producer.

(25) On this basis the countrywide level of dumping is provisionally established at 43,6 % of the cif Union frontier price, duty unpaid.

3.2. **People's Republic of China**

3.2.1. *Market Economy Treatment (MET)/Individual treatment (IT)*

(26) Pursuant to Article 2(7)(b) of the basic Regulation, normal value for imports originating in the PRC shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation. Briefly and for ease of reference only, these criteria are set out in summarised form below:

— business decisions are made in response to market signals, without significant State interference, and costs reflect market values,

— firms have one clear set of basic accounting records, which are independently audited in line with international accounting standards and are applied for all purposes,