Commission Regulation (EC) No 488/2008 of 2 June 2008 imposing a provisional anti-dumping duty on imports of citric acid originating in the People's Republic of China

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 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:

A. PROCEDURE

1. Initiation

(1) On 23 July 2007, a complaint concerning imports of citric acid originating in the People's Republic of China was lodged by the European Chemical Industry Council (CEFIC) (the complainant) on behalf of a producer representing a major proportion of the total Community production of citric acid, in this case more than 25 %.

(2) This complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

(3) On 4 September 2007, the proceeding was initiated by the publication of a notice of initiation in the *Official Journal of the European Union*[(2)].

2. Parties concerned by the proceeding

(4) The Commission officially advised the exporting producers, importers, users known to be concerned and their associations, consumers associations, the representatives of the exporting country and the Community producers of the initiation of the anti-dumping proceeding. 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.

(5) In order to allow exporting producers to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned and

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EC) No 488/2008. (See end of Document for details)*

to the representatives of the PRC. Eight exporting producers, including groups of related companies, requested MET pursuant to Article 2(7) of the basic Regulation, or alternatively IT – should the investigation establish that they do not meet the conditions for MET.

(6) In view of the apparent large number of exporting producers and importers involved in this investigation, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation.

(7) In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, exporting producers and importers and representatives acting on their behalf were requested to make themselves known and to provide, as specified in the notice of initiation, basic information on their activities related to the product concerned within 15 days of the date of publication of the notice of initiation.

(8) As far as the exporting producers are concerned, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of exports of citric acid to the Community, which could reasonably be investigated within the time available. On the basis of the information received from the exporting producers, a sample of four companies, or groups of related companies (the sampled companies) having the largest volume of exports to the Community was selected. In terms of export volume the four sampled companies represent 79 % of the total exports of citric acid from the PRC to the Community during the investigation period. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection.

(9) All four producers outside the sample have requested an individual margin, in accordance with Article 17(3) of the basic Regulation. Only one company, DSM Citric Acid (Wuxi) Ltd., has submitted the requested information within the timeframe foreseen. Therefore, only one complete request for an individual margin was received. As this request was not considered unduly burdensome and would not have prevent completion of the investigation in good time, the request was accepted.

(10) With regard to unrelated Community importers, in accordance with Article 17 of the basic Regulation, a sample was selected based on the largest representative volume of imports of citric acid to the Community, which could reasonably be investigated within the time available. On the basis of the information received from the unrelated Community importers, a sample of four companies, or groups of related companies (the sampled companies) having the largest volume of imports to the Community was selected. In terms of import volume the four sampled companies represent 36 % of the total imports of citric acid from the PRC to the Community during the investigation period. In accordance with Article 17(2) of the basic Regulation, the parties concerned were consulted and raised no objection. One of the sampled importers was not able to provide the requested information. The three remaining importers represent 29 % of the total imports of citric acid from the PRC to the Community during the investigation period.

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

(a) producers in the Community:
- Jungbunzlauer Austria AG, Vienna, Austria,
- S.A. Citrique Belge N.V., Tienen, Belgium;

(b) exporting producers in the PRC:
- Anhui BBCA Biochemical Co., Ltd, Bengbu City, Anhui Province,
- RZBC Co., Ltd, Rizhao, Shandong Province,
- TTCA Co., Ltd., Anqiu City, Shandong Province,
- Yixing Union Biochemical Co. Ltd, Yixing City, Jiangsu Province,
- Shanxi Ruicheng, Ruicheng County, Shanxi Province,
- Laiwu Taihe Biochemistry Co. Ltd, Laiwu City, Shandong Province,
- Weifang Ensign Industry Co. Ltd, Changle City, Shandong Province,
- DSM Citric Acid (Wuxi) Ltd, West Wuxi, Jiangsu Province;

(c) related companies in the PRC:
- Anhui BBCA Maanshan Biochemical Ltd, Maanshan, Anhui Province,
- China National Xin Liang Storage Transportation & Trading Corp., Beijing,
- DSM (China) Ltd., Shanghai,
- Shanxi Dimine International Trade, Taiyuan, Shanxi Province;

(d) unrelated importers in the Community:
- Azelis group, St. Augustin, Germany,
- Rewe Food Ingredients, Köln, Germany,
- Brenntag, Mülheim/Ruhr, Germany.

(12) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.

(13) In view of the need to establish a normal value for exporting producers to which MET might not be granted, a verification to establish normal value on the basis of data from an analogue country, Canada in this case (see recitals (40) to (44) below), took place at the premises of the following company:

(e) producer in Canada:
- Jungbunzlauer Canada, Port Colborne, Ontario.

3. Investigation period

(14) The investigation of dumping and injury covered the period from 1 July 2006 to 30 June 2007 (investigation period or IP). With respect to the trends relevant for the injury assessment, the Commission analysed data covering the period from 1 January 2004 to 30 June 2007 (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(15) The product concerned is citric acid (including sodium citrate), an acidulant and pH regulator for many applications such as beverages, food, detergents, cosmetics and pharmaceuticals. Its main raw materials are sugar/molasses, tapioca, corn or glucose (obtained from cereals) and different agents for the submerged microbial fermentation of carbohydrates.

(16) The product concerned includes citric acid monohydrate (CAM), citric acid anhydrous (CAA) and trisodium citrate dihydrate (TSC). These three types form the product concerned as they share similar basic chemical characteristics and have similar usage. The types of product are falling within CN Codes 2918 14 00 (CAM, CAA) and ex 2918 15 00 (TSC). The CN code 2918 15 00 also includes other salts and esters, which are not the product concerned.

(17) The investigation has shown that the different types of the product concerned all share the same basic technical and chemical characteristics and are basically used for the same purposes. They are therefore considered to constitute a single product for the purpose of this proceeding.

2. Like product

(18) The citric acid produced and sold in the Community by the Community industry and the citric acid produced and sold in the PRC and in Canada, which served as an analogue country, were found to have essentially the same technical and chemical characteristics and the same basic uses of the citric acid produced in the PRC and sold for export to the Community. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. General

(19) As stated in recital (6) above, sampling was envisaged for exporting producers in the PRC in the notice of initiation. In total, eight groups of companies replied to the sampling questionnaire within the time limits and provided the requested information. They represented 96 % of the total imports reported by Eurostat. The level of cooperation is therefore considered to be high. All of exporting producers have requested MET and IT. As mentioned at recital (8) above, four groups of companies were selected in the sample on the basis of their export volume to the Community.

2. Market Economy Treatment (MET)

(20) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value 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.

(21) Briefly, and for ease of reference only, the MET criteria are set out in summarised form below:

1. business decisions and costs are made in response to market signals and without significant State interference; costs of major inputs substantially reflect market values;
2. 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;
3. there are no significant distortions carried over from the former non-market economy system;
4. bankruptcy and property laws guarantee legal certainty and stability;
5. exchange rate conversions are carried out at market rates.

(22) All eight companies or groups of companies of Chinese exporting producers cooperating in this proceeding requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers within the given deadlines. All of these groups included both producers of the product concerned and companies related to the producers and involved in citric acid business. Indeed, it is the Commission's consistent practice to examine whether a group of related companies as a whole fulfils the conditions for MET. The following groups had requested MET:

— Anhui BBCA Biochemical Co., Ltd,
— RZBC Co., Ltd,
— TTCA Co., Ltd,
— Yixing Union Biochemical Co. Ltd,
— Shanxi Ruicheng,
— Laiwu Taihe Biochemistry Co. Ltd,
— Weifang Ensign Industry Co. Ltd,
— DSM Citric Acid (Wuxi) Ltd.

(23) For the above mentioned cooperating exporting producers, the Commission sought all information deemed necessary and verified the information submitted in the MET claim at the premises of the companies in question as deemed necessary.

(24) Two companies or groups of companies (Laiwu Taihe and DSM Wuxi) fulfilled all the criteria as summarised in recital (21) above and could be granted MET.