

**COMMISSION IMPLEMENTING REGULATION (EU) No 570/2014****of 26 May 2014****terminating the partial reopening of the anti-dumping investigation concerning imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia**

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 <sup>(1)</sup> (‘the basic Regulation’), and in particular Article 9(4) thereof,

Whereas:

**A. EXISTING MEASURES**

- (1) The Council, by Implementing Regulation (EU) No 1138/2011 <sup>(2)</sup> imposed a definitive anti-dumping duty on imports of certain fatty alcohols and their blends (‘FOH’) originating in India, Indonesia and Malaysia (‘definitive Regulation’). The definitive Regulation was preceded by Commission Regulation (EU) No 446/2011 <sup>(3)</sup> imposing a provisional anti-dumping duty on imports of FOH originating in India, Indonesia and Malaysia (‘provisional Regulation’). The findings that led to the imposition of the definitive anti-dumping duties will be referred to as ‘the findings of the original investigation’.
- (2) On 21 January 2012, PT Ecogreen Oleochemicals, an Indonesian exporting producer of FOH, Ecogreen Oleochemicals (Singapore) Pte. Ltd and Ecogreen Oleochemicals GmbH (herein jointly referred to as ‘Ecogreen’) lodged an application (case T- 28/12) before the General Court for the annulment of the definitive Regulation as far as the anti-dumping duty with regard to Ecogreen was concerned. Ecogreen contested the adjustment made on the basis of Article 2(10)(i) of the basic Regulation to its export price for the purpose of comparing that export price with the company’s normal value.
- (3) In case T-249/06 (Interpipe Nikopolsky Seamless Tubes Plant Niko Tube ZAT (Interpipe Niko Tube ZAT) and Interpipe Nizhnedneprovsky Tube Rolling Plant VAT (Interpipe NTRP VAT) v. Council of the European Union), the General Court annulled Article 1 of Regulation (EC) No 954/2006 with regard to Interpipe NTRP VAT, *inter alia*, on the grounds of a manifest error of assessment in making the adjustment based on Article 2(10)(i) and with regard to Interpipe Niko Tube ZAT on other grounds. On 16 February 2012, the Court of Justice rejected the appeal lodged by the Council and the Commission (Joined Cases C-191/09 P and C-200/09 P).
- (4) Given that the factual circumstances for Ecogreen were similar to those of Interpipe NTRP VAT in respect of the adjustment made pursuant to Article 2(10)(i) of the basic Regulation, it was considered appropriate to re-calculate the dumping margin of Ecogreen without making an adjustment pursuant to Article 2(10)(i).
- (5) Council Implementing Regulation (EU) No 1241/2012 of 11 December 2012 amending Implementing Regulation (EU) No 1138/2011 imposing a definitive duty and collecting definitively the provisional duty imposed on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia <sup>(4)</sup> was therefore published on 21 December 2012, with retroactive application as from 12 November 2011 (‘amending Regulation’).
- (6) The dumping margin therein established for Ecogreen was *de minimis* in accordance with Article 9(3) of the basic Regulation. The investigation in respect of Ecogreen was therefore terminated without the imposition of measures. The General Court decided subsequently on 9 April 2013 that there was no need to adjudicate on the action brought in case T-28/12.
- (7) Although all the other exporting producers in India, Indonesia and Malaysia remained subject to anti-dumping duties, the findings of the original investigation in particular the injurious effects of the dumped imports should be reassessed in the light of the revised dumping findings contained in the amending Regulation.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> OJ L 293, 11.11.2011, p. 1.

<sup>(3)</sup> OJ L 122, 11.5.2011, p. 47.

<sup>(4)</sup> OJ L 352, 21.12.2012, p. 1.

## B. REASSESSMENT OF THE FINDINGS OF THE ORIGINAL INVESTIGATION

### 1. Framework of the reassessment

- (8) A Notice concerning a partial reopening of the anti-dumping investigation concerning imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia ('countries concerned') was published on 28 February 2013 <sup>(1)</sup> ('reopening'). The notice mentioned that the reopening was limited in scope to the examination of the impact the newly established dumping margins may have on the findings relating in particular to injury and causation established in the original investigation ('re-investigation').
- (9) The Commission officially advised the exporting producers, the importers and users known to be concerned and the Union industry of the partial reopening of the investigation. Interested parties were given the opportunity to make their views known in writing and to be heard within the time limit set out in the notice.
- (10) Several parties argued that it was unclear on which legal basis the Commission reopened the original investigation and which data the Commission would collect to establish the facts and reach conclusions in the current re-investigation.
- (11) Parties also claimed that it was not clear what type of investigation was initiated and what the final outcome could be in the context of the level of the definitive measures, what period would be covered and which aspects of the original investigation were being reassessed.
- (12) It is recalled that this reopening is the necessary consequence of the adoption of the amending Regulation, which was itself the result of the findings of the General Court in case T-249/06 (Interpipe Nikopolsky Seamless Tubes Plant Niko Tube ZAT (Interpipe Niko Tube ZAT) and Interpipe Nizhnedneprovsky Tube Rolling Plant VAT (Interpipe NTRP VAT) v. Council of the European Union.
- (13) It is recalled that in the original investigation the so-called investigation period (IP) was the period running from 1 July 2009 to 30 June 2010. The assessment of injury covered the period from 1 January 2007 up to the end of the IP and was referred to as 'the period considered'.
- (14) The current re-investigation is focussing on the same IP and the same period considered. The findings reached for these periods during the original investigation as far as injury and causality are concerned are being re-assessed in the light of the newly established dumping margins for the Indonesian exporters in the amending Regulation.
- (15) More specifically, and as mentioned in the reopening notice, the aim of the current re-investigation is to determine whether the '*de minimis*' dumping margin established for one exporting producer in Indonesia and the change in the level of the dumping margins for the other Indonesian companies established by the amending Regulation, may have any impact on the findings of the original investigation relating to injury and to causation.
- (16) The results of the re-investigation are set out below. As was the case in the original investigation, certain data and information is provided in indexed form in particular to preserve the confidentiality of data originally submitted.

### 2. Product concerned and like product

- (17) It is recalled that the product concerned is the one defined in the original investigation, namely, saturated fatty alcohols with a carbon chain length of C8, C10, C12, C14, C16 or C18 (not including branched isomers) including single saturated fatty alcohols (also referred to as 'single cuts') and blends predominantly containing a combination of carbon chain lengths C6-C8, C6-C10, C8-C10, C10-C12 (commonly categorised as C8-C10), blends predominantly containing a combination of carbon chain lengths C12-C14, C12-C16, C12-C18, C14-C16 (commonly categorised as C12-C14) and blends predominantly containing a combination of carbon chain lengths C16-C18, originating in India, Indonesia, and Malaysia, currently falling within CN codes ex 2905 16 85, 2905 17 00, ex 2905 19 00 and ex 3823 70 00 ('fatty alcohol').
- (18) The findings of the amending Regulation do not affect the findings set out in the original investigation concerning the product under consideration and the like product.

### 3. Dumping

- (19) As mentioned in recital (7) of the amending Regulation, the dumping margins for all companies in Indonesia, other than for the other exporting producer with an individual margin, which was based on that of the cooperating Indonesian exporting producer with the highest dumping margin, were revised to take account of the recalculated dumping margin of Ecogreen.

<sup>(1)</sup> OJ C 58, 28.2.2013, p. 24.

- (20) The dumping margins established in recital (23) of the definitive Regulation for Indian exporting producers and those established in recital (55) for Malaysian exporting producers were not affected by the amending Regulation.
- (21) As mentioned in recital (6) of the amending Regulation, the dumping margin for Ecogreen was established at less than 2 % and is therefore below the *de minimis* threshold foreseen in Article 9(3) of the basic Regulation. The imports into the Union made by this exporting producer should thus be considered as non-dumped imports in the re-investigation.
- (22) The volume, price and market share of the non-dumped imports made by the said Indonesian exporter developed as shown in the table below during the period considered. As mentioned in recital (16) above, data submitted is indexed.

Imports	2007	2008	2009	IP
<b>Tonnes</b>				
<i>Index: 2007 = 100</i>	100	110	107	115
Annual $\Delta$ %		9,6	- 2,3	7,5
<b>Market Share</b>				
<i>Index: 2007 = 100</i>	100	107	110	113
Annual $\Delta$ %		6,8	2,9	2,8
<b>Average price EUR/tonne</b>				
<i>Index: 2007 = 100</i>	100	110	91	91
Annual $\Delta$ %		9,9	- 17,0	0,2

Source: Questionnaire replies.

- (23) With reference to the table shown in recital (70) of the provisional Regulation, which was confirmed by recital (64) of the definitive Regulation, and the above table, the investigation showed that the non-dumped imports represented a limited share of the total imports from the countries concerned and that they grew proportionally less than the dumped imports during the period considered. Indeed, the non-dumped imports represented around 15 %-18 % of the total volume of imports from the countries concerned in 2007 and only around 10 %-13 % during the IP.
- (24) The re-investigation shows that the average prices of the non-dumped imports from Ecogreen decreased by 9 % in the period considered but they remained stable between 2009 and the IP.

#### 4. Injury

##### 4.1. Union production and Union Industry

- (25) The findings set out in recitals (57) to (61) of the definitive Regulation regarding Union production and Union industry are not affected by the re-investigation and are hereby confirmed.

##### 4.2. Union consumption

- (26) The findings set out in recitals (64) to (66) of the provisional Regulation which were confirmed by recital (62) of the definitive Regulation remain unaffected. It is confirmed that, as shown in the table below, Union consumption of fatty alcohol was fairly stable and increased only slightly by 2 % during the period considered. As mentioned in recital (64) of the provisional Regulation the information concerning consumption was provided in indexed form to preserve the confidentiality of data.

Consumption	2007	2008	2009	IP
<i>Index: 2007 = 100</i>	100	102	97	102
Annual $\Delta$ %		2,2	- 4,8	4,6

## 4.3. Imports into the Union from the countries concerned and price undercutting

## 4.3.1. Cumulative assessment of dumped imports

- (27) As was the case in the original investigation, it was examined whether or not a cumulative assessment of the dumped imports for the three countries concerned was still warranted in accordance with the provisions of Article 3(4) of the basic Regulation in view of the revised dumping margins for Indonesian exporting producers mentioned in recitals (19) and (21) above.
- (28) It is recalled that Article 3(4) of the basic Regulation states that where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the effects of such imports shall be cumulatively assessed only if it is determined that: (a) the margin of dumping established in relation to the imports from each country is more than *de minimis* as defined in Article 9(3) of that Regulation and that the volume of imports from each country is not negligible; and (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between imported products and the conditions of competition between the imported products and the like Union product.
- (29) The findings concerning the volumes and price of dumped imports for each of the countries concerned were reassessed for the period considered. The information relating to import volume used to establish the average prices mentioned in the table in recital (63) (b) of the definitive Regulation remain unchanged as far as Malaysia and India are concerned. The data relating to Indonesia was revised to take account of the fact that, as mentioned above in recital (21) above, one exporting producer was no longer considered to be dumping its products in the Union market. The newly established dumped imports developed as shown below. With reference to recital (16) above, the information concerning import volume is provided in indexed form for each of the countries concerned.

Import volume of dumped imports	2007	2008	2009	IP
<b>Malaysia</b>				
<i>Index: 2007 = 100</i>	100	161	141	137
Annual $\Delta$ %		61,4	- 12,5	- 2,9
<b>India</b>				
<i>Index: 2007 = 100</i>	100	118	104	143
Annual $\Delta$ %		18,2	- 11,8	37,5
<b>Indonesia</b>				
<i>Index: 2008 = 100</i>		100	142	168
Annual $\Delta$ %			42,1	17,9

- (30) The investigation showed that the volume of dumped imports for each of the countries concerned was not negligible during the IP and that the presence of dumped imports in the Union market remained significant during the period considered and in particular during the IP. The fact that one of the Indonesian exporting producers was found by the amending Regulation not to be dumping does not change this conclusion.
- (31) The findings concerning the pricing of the dumped imports for each of the countries concerned were also reassessed for the period considered and are shown in the table below. The prices mentioned in the table in recital (63) (b) of the definitive Regulation remain unchanged as far as Malaysia and India are concerned. The data relating to Indonesia was revised to take account of the fact that, as mentioned above in recital (21), one exporting producer was not considered to be dumping its products in the Union market. With reference to recital (16) above the information concerning the price of the Indonesian exporter found to dump is provided in indexed form.

Imports based on Eurostat (adjusted to cover the product concerned and the dumped imports)	2007	2008	2009	IP
<b>Average price in EUR/tonne Malaysia</b>	911	944	799	857
<i>Index: 2007 = 100</i>	100	104	88	94
Annual $\Delta$ %		3,6	- 15,4	7,3
<b>Average price in EUR/tonne India</b>	997	1 141	897	915
<i>Index: 2007 = 100</i>	100	114	90	92
Annual $\Delta$ %		14,4	- 21,4	2,1
<b>Average price in EUR/tonne Indonesia</b>				
<i>Index: 2008 = 100</i>		100	70	72
Annual $\Delta$ %			- 30,0	2,6

Source: Eurostat and Questionnaire replies.

- (32) The investigation showed that, except for 2007 when there were no imports from Indonesia, the pricing of Indonesian exporting producers remained almost the same as in the original investigation. Hence, the finding made in recital (63) (b) of the definitive Regulation that the pricing and the pricing behaviour of the countries concerned were largely similar in particular during the IP can be confirmed. The fact that one of the Indonesian exporting producers was found by the amending regulation not to be dumping does not change this conclusion.
- (33) Moreover, the findings made in recital (127) of the provisional Regulation and confirmed in recital (122) of the definitive Regulation and in particular that the injury elimination levels established for the countries concerned were significantly above the *de minimis* threshold of 2 % also remain valid. Also, the sales channels and the price trends for each of the countries concerned were analysed and found to be similar, as the table above shows. The import prices from the countries concerned followed a declining trend after the peak in 2008 and were on a global level particularly low compared to the average Union industry's prices as the investigation showed.
- (34) The table below shows that the market share of dumped imports from each country concerned overall increased during the period considered. With reference to recital (16) above, the information is provided in indexed form.

Market share of dumped imports	2007	2008	2009	IP
<b>Malaysia</b>				
<i>Index: 2007 = 100</i>	100	157	145	135
Annual $\Delta$ %		57	- 8	- 7
<b>India</b>				
<i>Index: 2007 = 100</i>	100	115	107	141
Annual $\Delta$ %		15	- 7	31
<b>Indonesia</b>				
<i>Index: 2008 = 100</i>		100	142	168
Annual $\Delta$ %			50	13

- (35) Based on the above facts and considerations, the re-investigation shows that the findings made in the original investigation concerning cumulation remain unchanged. It is thus considered that the conditions set forth in Article 3(4) of the basic Regulation concerning the cumulative assessment of the dumped imports from the countries concerned continue to be met. The effects of the dumped imports originating in the countries concerned can thus be assessed jointly for the purpose of the re-investigation of injury and causality.

#### 4.3.2. Volume, price and market share of dumped imports

- (36) In order to establish the cumulative level of dumped imports into the Union market during the period considered, account is taken of the fact that the amending Regulation confirmed the positive findings of dumping for all the exporting producers in Indonesia with the exception of Ecogreen. Their exports are considered to be dumped and thus remain subject to anti-dumping duties.
- (37) Similarly, the re-investigation takes account of the fact that the dumping margins established in the original investigation for all exporting producers in India and Malaysia remain unchanged, and that their imports are considered to be dumped and remain subject to anti-dumping duties.
- (38) The volume of dumped imports from the countries concerned has been adjusted by deducting the volume of the non-dumped imports from one Indonesian exporting producer, as referred to in recital (29) above.
- (39) Based on the above, the data mentioned in recital (70) of the provisional Regulation, and confirmed by recital (64) of the definitive Regulation, and the findings contained in recitals (71) to (73) of the provisional Regulation concerning the assessment of the dumped imports during the period considered, as confirmed by recital (65) of the definitive Regulation, are revised as shown below. With reference to recital (16) above, the information concerning total import volumes and market share of dumped imports is provided in indexed form.

Dumped Imports from the countries concerned	2007	2008	2009	IP
<b>Tonnes</b>				
<i>Index: 2007 = 100</i>	100	167	155	165
Annual $\Delta$ %		67,0	- 7,3	6,5
<b>Market share</b>				
<i>Index: 2007 = 100</i>	100	163	159	162
Annual $\Delta$ %		62,7	- 2,3	1,8
<b>Average price EUR/tonne dumped imports</b>	931	1 007	827	878
<i>Index: 2007 = 100</i>	100	108	89	94
Annual $\Delta$ %		8,2	- 17,9	6,1

Source: Eurostat and Questionnaire replies.

- (40) The volume of dumped imports from the countries concerned established in the current re-investigation increased significantly by 65 % during the period considered. The biggest increase took place between 2007 and 2008 when imports increased by 67 %. Imports then decreased slightly in 2009 to increase again almost to the 2008 level during the IP.
- (41) The revised average prices of dumped imports from the countries concerned fluctuated heavily during the period considered, reflecting an overall 6 % decrease. But it is noteworthy that between 2008 and the IP the rate of decrease was as high as 14 %. Throughout the period considered, average prices of the imports from the countries concerned were always lower than those set by the rest of the world and were undercutting those of the Union Industry, thus resulting in an increase in the market share of the dumped imports.

- (42) The market share of the dumped imports from the countries concerned increased significantly, by 62 %, during the period considered. The biggest increase took place between 2007 and 2008. There was a slight decrease of imports during the economic crisis, which slightly reduced the market share of the countries concerned by 4 %, between 2008 and 2009, but then they regained market share by the end of the period considered.
- (43) The exclusion of non-dumped imports from Ecogreen does therefore not alter in any way the findings made in the original investigation regarding volume, price and market share of dumped imports, which are therefore confirmed.

#### 4.3.3. Price Undercutting

- (44) It is recalled that the ranges concerning the price undercutting found in the original investigation were explained in recitals (74) and (75) of the provisional Regulation and confirmed in recital (67) of the definitive Regulation. The individual calculations established for each of the exporters concerned were not affected by the amending Regulation. These findings are therefore confirmed.
- (45) The average undercutting found for the dumped imports cumulatively assessed for three countries together after exclusion of the non-dumped imports is 2 %. This apparently low undercutting has to be seen in the light of the fact that the Union industry saw itself forced to lower its prices due to the presence of the low priced imports on the EU market. These prices were however not covering the cost of production in particular during the IP. The average underselling for the cumulatively assessed dumped imports, Ecogreen excluded, was 22 %.
- (46) In reaction to the disclosure of the Commission's findings, an importer of FOH originating in Indonesia claimed the average price of the non-dumped imports would be lower than the average price of the imports produced by the Indonesian exporting producer remaining under measures. However, that claim does not affect the finding of price undercutting for the dumped imports cumulatively assessed.

#### 4.4. Economic situation of the Union Industry

- (47) The findings made in recitals (76) to (91) of the provisional Regulation and confirmed in recitals (71) to (84) of the definitive Regulation concerning the economic situation of the Union industry are not affected by the amending Regulation and can therefore be confirmed.
- (48) It is recalled that the original investigation showed that most of the injury indicators pertaining to the Union industry such as production (– 17 %), capacity utilization (– 15 %), sales volume (– 18 %), market share (– 12 %) and employment (– 13 %) deteriorated during the period considered. In particular the injury indicators relating to the financial performance of the Union industry such as cash flow and profitability were seriously affected. This means that the ability of the Union industry to raise capital was undermined, in particular during the IP.
- (49) In the light of the foregoing, the conclusion that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation is confirmed.

### 5. Causation

- (50) Further to the confirmation of the existence of material injury suffered by the Union industry it has been reassessed whether there is still a causal link between the said injury following the revised findings for dumping as established in the amending Regulation and the revised dumped imports from the countries concerned.

#### 5.1. Effect of the dumped imports

- (51) As shown in recital (26) above, consumption in the Union was fairly stable and only increased by 2 % during the period considered.
- (52) The table in recital (39) above, which excludes the imports made by the Indonesian exporter found by the amending Regulation not to have dumped its products on the Union market, shows that the revised volume of dumped imports from the three countries concerned remained important and increased significantly by over 60 000 tonnes in absolute terms and by over 60 % in relative terms during the period considered. Likewise, the market share held by the dumped imports increased significantly and gained more than 5 percentage points during that period.

- (53) These trends are very similar to those established in the original investigation and in particular in recitals (86) to (94) of the definitive Regulation. The increase in market share, which was established at 57 % in the original investigation, is now for the period considered to be more than 60 % with the revised data.
- (54) Indeed, the re-investigation confirmed that the dumped imports from the countries concerned exerted pressure on the Union industry, starting from the year 2008, when these imports grew by 67 %. In that year, the prices of dumped imports, as shown in recital (39), were much lower than the Union industry's prices. This resulted in a significant loss in sales volume (- 15,4 %) and market share for the Union industry, which they could never regain in the remainder of the period considered. At the same time, the dumped imports from the countries concerned increased their market share by over 9 percentage points.
- (55) It was shown in recital (72) of the definitive Regulation that in order to respond to this pressure, the Union industry had to significantly reduce its sales prices by 16,9 % in 2009 and even had to further decrease them by 5,3 % during the IP. Even if this price behaviour allowed the Union industry to limit the loss in market share, it led to significant losses accumulated during the period considered, as illustrated in recital (86) of the provisional regulation, and confirmed in recital (78) of the definitive regulation. This situation coincided with the presence of large volumes of low-priced dumped imports in the Union market in particular during the IP.
- (56) In 2009, although the absolute volume of dumped imports from the countries concerned decreased by 7,3 %, in line with the economic downturn and the contraction in the EU market, it is observed that the average price of the dumped imports decreased by 17,9 %, thus more than the 16,9 % reduction in the Union industry's price. During the IP, the Union industry had to decrease its prices and accumulated financial losses.
- (57) The above considerations show the severe consequences the presence of large volumes of low-priced dumped imports in the Union market had on the pricing behaviour of the Union industry on its core market and the negative impact it had on its economic situation in particular during the IP.
- (58) The above mentioned importer claimed that in the analysis of the causal link, the remaining dumped Indonesian imports should be decumulated from the imports originating in India and Malaysia, on the basis of factors such as the stable market share, the higher price level, the lack of undercutting, the lower underselling margin of those Indonesian imports and the parallel evolution of the Indonesian and Union industry market shares. The importer further claimed that no causal link existed between the injury and the dumped Indonesian imports, once decumulated.
- (59) The claim was rejected because the factors raised by the importer, sometimes on a selective basis, are not those considered relevant under Article 3(4) of the basic Regulation to determine whether or not cumulation should be applied, in particular as concerns the conditions of competition between imported products and the like Union products. Indeed, the original investigation concluded that the product concerned is an intermediary commodity product mainly used as input for the production of fatty alcohol sulphates, ethoxylates and ether sulphates, and that the imported product competes directly with the Union produced product, regardless of the country of origin. The uniformity of the competition on the Union market therefore warrants the cumulative assessment of imports in the sense of Article 3(4)(b) of the basic Regulation. The arguments of the importer do not address this finding, and could only become relevant once decumulation applies. Given that there is no basis to amend the findings of the original investigation on cumulation, the analysis of the effects of the dumped imports is confirmed.
- (60) In addition, it should be noted that the remaining Indonesian imports were made at dumped price levels, they increased strongly their market share over the period concerned and they were underselling the Union industry's sales prices.
- (61) Finally, the importer mentioned that Ecogreen was underselling more than the remaining Indonesian exporting producer and that therefore, because Ecogreen's imports are considered to have a negligible impact, the same conclusion should apply *a fortiori* to the remaining Indonesian imports.
- (62) This conclusion is based on a wrong premiss. The Court ruling caused a change in the dumping calculation of Ecogreen, which then became *de minimis*. It is only for that reason that the impact of Ecogreen's imports had to be considered negligible. The claim is therefore rejected.



- (63) Based on the above findings it is concluded that the dumped imports caused material injury to the Union industry.

#### 5.2. *Effect of other factors*

- (64) The effect of other factors on the situation of the Union industry in the context of causality was likewise re-examined.

##### 5.2.1. Non-dumped Imports from Indonesia

- (65) As mentioned in recital (23) above, the non-dumped imports grew proportionally less than the dumped imports and only represented a limited share of the total imports from the countries concerned during the IP. In addition, the investigation also showed that these imports only had a modest market share during the period considered and in particular during the IP.
- (66) The volume of dumped imports increased by 6,5 % between 2009 and the IP, namely more than the market recovery illustrated by the 4,6 % increase in the Union consumption, and thus gained market share.
- (67) It is thus considered that any impact the non-dumped imports may have had on the Union market during the IP cannot outweigh the significant negative impact of the dumped imports described in details in recitals (51) to (57).
- (68) Based on the above findings, it is considered that the presence of non-dumped imports from Ecogreen in the Union market during the IP is not such as to break the causal link between the dumped imports and the injury suffered by the Union industry during the IP.

##### 5.2.2. Other factors examined in the original investigation

- (69) In the original investigation, the other factors examined in the context of the potential causes of the material injury suffered by the Union industry were: the imports into the Union from the rest of the world, the export performance of the Union industry, the impact of the economic crisis and the sales of the branched isomers which are not covered by the product scope.
- (70) Given that these factors are not affected by the revised dumping margins established for the Indonesian exporting producers, the findings and conclusion reached in recitals (95) to (100) of the definitive Regulation with regard to these factors are confirmed. The impact of these factors is not such as to break the causal link established between the dumped imports and the injury suffered by the Union industry.

#### 5.3. *Conclusion on causation*

- (71) The current re-investigation shows that there is still a clear and direct link between the increase in volume and the negative price effect of dumped imports and the material injury suffered by the Union industry during the IP.
- (72) The above analysis shows that the volume of non-dumped imports was limited compared to the bulk of dumped products imported from the countries concerned. In a context of fairly stable consumption, these dumped imports increased significantly both in absolute and in relative terms during the period considered and their presence had a considerable negative impact on the Union market. Indeed, it was observed that, because of the distortion created in the market, the Union industry had to significantly reduce its prices by 22,2 % as from 2008, and could not cover its costs and achieve a reasonable amount of profit in particular during the IP.
- (73) The re-investigation also confirmed that the effects of other factors than dumped imports could not break the causal link between the dumped imports and the injury suffered by the Union industry.
- (74) Consequently, the re-investigation shows that there is a causal link between the dumped imports from India, Indonesia and Malaysia and the material injury suffered by the Union industry during the IP. The conclusions reached in recitals (101) and (102) of the definitive Regulation are hereby confirmed.

#### 6. **Union interest**

- (75) The conclusion reached in recital (118) of the definitive Regulation with regard to the Union interest have not been shown to be affected by the amending Regulation and are hereby confirmed.

## C. REASSESSMENT OF THE DEFINITIVE MEASURES

- (76) As shown above, the re-investigation of the relevant facts and findings established in the original investigation taking account of the new dumping margins as established in the amending Regulation showed that the remaining dumped imports from India, Indonesia and Malaysia into the Union market are causing material injury to the Union industry during the IP.
- (77) In view of the conclusions reached in the original investigation with regard to dumping, injury, causation and Union interest and given that the current re-investigation confirmed the existence of a causal link between the material injury suffered by the Union industry and the remaining dumped imports from the countries concerned, the definitive measures imposed by the amending Regulation should be confirmed at the same level. As a consequence, it is concluded that this re-investigation should be terminated without amending the definitive measures as imposed by the definitive Regulation.
- (78) The anti-dumping measures in force, as established in Council Implementing Regulation (EU) No 1138/2011 and amended by Council Implementing Regulation (EU) No 1241/2012 remain valid and should therefore stay in force. It is recalled that the measures imposed were specific duties and were established for each exporting producer concerned as follows:

Country	Company	Definitive specific AD duty (EUR per tonne net)
India	VVF (India) Ltd	46,98
	All other companies	86,99
Indonesia	P.T.Ecogreen Oleochemicals	0,00
	P.T. Musim Mas	45,63
	All other companies	45,63
Malaysia	KL-Kepong Oleomas Sdn.Bhd.	35,19
	Emery Oleochemicals (M) Sdn. Bhd.	61,01
	Fatty Chemical Malaysia Sdn. Bhd	51,07
	All other companies	61,01

- (79) The authorities of the countries concerned, the exporters and their associations, all interested parties in the Union, in particular the Union industry, importers, users' and traders' associations, were informed of the essential facts and considerations on the basis of which it was intended to terminate the partial reopening of the anti-dumping re-investigation concerning imports of fatty alcohol from countries concerned and were given an opportunity to comment and to be heard. The oral and written comments submitted by these parties were considered but have not altered the conclusions reached in this Regulation.
- (80) One exporting producer offered a price undertaking in accordance with Article 8(1) of the basic Regulation.
- (81) It was found in particular that the exporting producer in question produces a range of products apart from the product concerned and sells these other products to the same clients. This would create a serious risk of cross-compensation and would render the effective monitoring of the undertaking extremely difficult, undermining the effectiveness of a price undertaking in the current case. On that basis, the Commission concluded that the undertaking offer cannot be accepted.
- (82) The measures provided in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The partial reopening of the anti-dumping investigation concerning imports of saturated fatty alcohols with a carbon chain length of C8, C10, C12, C14, C16 or C18 (not including branched isomers) including single saturated fatty alcohols (also referred to as 'single cuts') and blends predominantly containing a combination of carbon chain lengths C6-C8, C6-C10, C8-C10, C10-C12 (commonly categorised as C8-C10), blends predominantly containing a combination of carbon chain lengths C12-C14, C12-C16, C12-C18, C14-C16 (commonly categorised as C12-C14) and blends predominantly containing a combination of carbon chain lengths C16-C18, currently falling within CN codes ex 2905 16 85, 2905 17 00, ex 2905 19 00 and ex 3823 70 00 (TARIC codes 2905 16 85 10, 2905 19 00 60, 3823 70 00 11 and 3823 70 00 91) and originating in India, Indonesia, and Malaysia is hereby terminated without amending the duties in force.

*Article 2*

This regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 May 2014.

*For the Commission*

*The President*

José Manuel BARROSO

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