

COMMISSION IMPLEMENTING REGULATION (EU) 2023/592**of 16 March 2023****amending Implementing Regulation (EU) 2019/244 imposing a definitive countervailing duty on imports of biodiesel originating in Argentina**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽¹⁾, and in particular Article 24(1) thereof,

Whereas:

- (1) Imports of biodiesel originating in Argentina are subject to definitive countervailing duties imposed by Commission Implementing Regulation (EU) 2019/244 ⁽²⁾ (the original investigation).
- (2) Oleaginosa Moreno Hermanos S.A.C.I.F.I. y A (the applicant), an Argentinian exporting producer, TARIC ⁽³⁾ additional code C497, subject to an individual countervailing duty rate of 25,0 %, informed the Commission on 23 May 2022 that it had changed its name to Viterra Argentina S.A.
- (3) The company considered that the change of name does not affect its rights to benefit from the individual countervailing duty rate applied to it under its previous name and requested the Commission to confirm it.
- (4) The European Association of biodiesel producers (EBB) did not agree with the applicant arguing that it had undergone more complex structural change affecting its right to continue benefitting from the level of measure established in the original investigation.
- (5) The Commission collected information and examined the evidence supplied by the applicant and considered that the change of name was properly registered with the relevant authorities, and did not result in any new relationship with other groups of companies which were not investigated by the Commission in the original investigation.
- (6) The evidence in the file confirmed the applicant's statement that the change of the name has been approved by Public Registry of Commerce of Argentina on 3 May 2022 and the Federal Administration of Public Revenue on 1 July 2022. Accordingly, the Commission concluded that the change of name does not affect the findings of Implementing Regulation (EU) 2019/244 and in particular the countervailing duty rate applicable to it.
- (7) Based on the above, the name change should take effect as of the date on which the company was officially operating under the new name, i.e. 1 July 2022.
- (8) The Union industry (EBB) in its comments to the disclosure reiterated the arguments initially submitted on the request for a name change. It alleged that the change of name was hiding a more complex structural change, that the applicant increased its biodiesel activities by different acquisitions, changed CEO, became leader in the agricultural sector in Argentina, and that it was, somehow, related to another exporting producer, which had gone bankrupt.
- (9) It is recalled that all exporting producers in Argentina are subject to a price undertaking whereby they must respect a minimum import price and export their biodiesel to the Union below a volume threshold, which is annually revised for the whole country.

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ Commission Implementing Regulation (EU) 2019/244 of 11 February 2019 imposing a definitive countervailing duty on imports of biodiesel originating in Argentina (OJ L 40, 12.2.2019, p. 1).

⁽³⁾ The Integrated Tariff of the European Union.

- (10) The Commission examined the above allegations and noted that the industry did not provide sufficient evidence corroborating their claims. The Commission did not find evidence pointing to an impact of the applicant's activities in the agricultural sector, or its alleged production capacity increase on the measures currently in place. The mere name change will not allow the applicant to export a higher volume to the Union or sell below the minimum price periodically fixed by the Commission and thus cannot affect or undermine the measures currently in force. The claims made by the Union industry could not be taken into account and were therefore rejected.
- (11) Given the considerations in the recitals above, the Commission considered it appropriate to amend Implementing Regulation (EU) 2019/244 to reflect the changed name of the company previously attributed to additional TARIC code C497.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036 of the European Parliament and of the Council ^(*).

HAS ADOPTED THIS REGULATION:

Article 1

1. Article 1 of Commission Implementing Regulation 2019/244 is amended as follows:

'Oleaginosa Moreno Hermanos S.A.C.I.F.I. y A	25,0 %	C497'
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is replaced by

'Viterra Argentina S.A.	25,0 %	C497'.
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2. TARIC additional code C497 previously attributed to Oleaginosa Moreno Hermanos S.A.C.I.F.I. y A shall apply to Viterra Argentina S.A., as of 1 July 2022. Any definitive duty paid on imports of products manufactured by Viterra Argentina S.A. in excess of the countervailing duty established in Article 1 of Implementing Regulation (EU) 2019/244 as regards Oleaginosa Moreno Hermanos S.A.C.I.F.I. y A shall be repaid or remitted in accordance with the applicable customs legislation.

Article 2

This Regulation shall enter into force on the day following that of 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, 16 March 2023.

For the Commission
The President
Ursula VON DER LEYEN

^(*) Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (codification) (OJ L 176, 30.6.2016, p. 21).