Commission Implementing Regulation (EU) 2020/1428 of 12 October 2020 imposing a provisional anti-dumping duty on imports of aluminium extrusions originating in the People's Republic of China

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1428

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imposing a provisional anti-dumping duty on imports of aluminium extrusions originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

Having regard to 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[(1)] ('the basic Regulation'), and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 14 February 2020, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of aluminium extrusions originating in the People's Republic of China ('China' or the 'country concerned') on the basis of Article 5 of the basic Regulation.

(2) The Commission initiated the investigation following a complaint lodged on 3 January 2020 (the 'complaint') by the association European Aluminium (the 'complainant'). The complainant represented more than 25 % of the total Union production of aluminium extrusions. The complaint contained evidence of dumping and of resulting material injury.

(3) On this basis, the Commission considered that the complaint contained sufficient evidence to justify the initiation of the investigation.

1.2. Registration

(4) Following a request from the complainant supported by the required evidence, the Commission made imports of the product concerned subject to registration under Article 14(5) of the basic Regulation by Commission Implementing Regulation (EU) 2020/1215[(2)].

1.3. Interested parties

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(5) In the Notice of Initiation[3], the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, the known Union producers, the national aluminium associations of the Union, the known exporting producers, the authorities of China, the known importers, the known traders and users about the initiation of the investigation and invited them to participate.

(6) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. The parties who so requested were granted an opportunity to be heard.

1.4. **Comments on initiation**

(7) The Commission received comments from two importers (Airoldi and Kastens and Knauer) on initiation. The Commission considered all comments and addressed them in the sections below.

1.5. **Sampling**

(8) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

1.5.1. *Sampling of Union producers*

(9) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of the largest representative quantity of production and sales on the Union market which could be investigated within the time available. This sample consisted of the four largest Union producers in terms of production and sales. The selected sample produced and sold a very wide range of products, including the four basic product types (bars and rods, solid profiles, hollow profiles, pipes and tubes) and accounted for just under 10 % of production and sales on the Union market. The Commission invited interested parties to comment on the provisional sample.

(10) European Aluminium submitted that by basing the sample on the largest producers the full extent of the injury might not be identified. This claim was based on the fact that smaller producers represented the largest quantity of production and sales and these companies did not benefit from economies of scale like the largest producers. European Aluminium proposed two additional companies to be included in the sample, which it also claimed enabled a larger coverage of end-user markets.

(11) The Commission assessed the claim and decided to maintain its original sample. Although a few companies which could fulfil the legal criteria to be considered SMEs provided sampling information, they represented only a marginal proportion of production and sale in the Union. The smaller producers mentioned by European Aluminium were in fact too large to qualify as SMEs. Thus, the Commission had no

objective reason to revise the sample or to include the two companies proposed by European Aluminium.

(12) Thus, the Commission considered that the sample was representative of the Union industry based on the information available on the case file.

1.5.2. *Sampling of importers*

(13) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(14) Six unrelated importers provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two importers on the basis of the largest representative volume of sales of products under investigation originating from the People's Republic of China during the investigation period. In accordance with Article 17(2) of the basic Regulation, all known importers concerned were consulted on the selection of the sample. The Commission received no comments in this respect.

(15) One importer (Airoldi Metalli S.p.A.) submitted that major importers, particularly from Germany, were not taking part in the investigation, which would mean that the market analysis performed by the Commission both concerning injury and dumping would not correspond to the economic reality of the industry.

(16) All importers were informed of the initiation of the investigation by the Notice of initiation published in the *Official Journal of the European Union* and were given the opportunity to cooperate and be sampled. Furthermore, although the cooperation of importers was low, there was co-operation from Germany, including one of the sampled importers.

(17) Therefore, the Commission considered that the sample was representative based on the sampling information available on the case file.

1.5.3. *Sampling of exporting producers in China*

(18) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in China to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(19) Thirty-seven exporting producers in China provided the requested information and agreed to be included in the sample within the stipulated deadline. Two of those exporting producers provided the requested information after the stated deadline. Their replies were taken into account, but not included in the sample at the later stage, as they were not among the largest with regard to volume of exports. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three cooperating groups of exporting producers on the basis of the largest

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representative volume of exports to the Union which could reasonably be investigated within the time available, representing 28,1 % of total exports.

(20) In accordance with Article 17(2) of the basic Regulation, the Commission consulted all known exporting producers of aluminium extrusions, and the authorities of China on the selection of the sample. The Commission did not receive any comment on its preliminary selection.

1.6. **Individual examination**

(21) Twenty-two exporting producers in China indicated their intention to request individual examination under Article 17(3) of the basic Regulation. However, only two exporting producers submitted completed questionnaires within the stipulated deadline. At this stage, given the time constraints, the Commission has not been able to consider those requests. Thus, it will decide whether to grant individual examination at the definitive stage of the investigation.

1.7. **Replies to the questionnaire**

(22) The Commission requested the following parties to provide a reply to questionnaire[4]:

Union producers

— Constellium Decin s.r.o., Decin, Czechia

— Hydro Extrusion Hungary k.f.t, Székesfehérvár, Hungary

— Impol d.o.o., Slovenska Bistrica, Slovenia

— ST Extruded Products GmbH, Vogt, Germany

Association of Union Producers

— European Aluminium, Brussels, Belgium

Unrelated importers

— Airoldi Metalli S.p.A.

— mejo Metall Josten GmbH & Co.

Exporting producers

— The Liaoning Zhongwang Group, composed of two exporting producers: (i) Liaoning Zhongwang Group Co., Ltd.; and, (ii) Yingkou Zhongwang Aluminium Business Co., Ltd;

— The Haomei Group, composed of two exporting producers: (i) Guangdong Haomei New Materials Co., Ltd.; and, (ii) Guangdong King Metal Light Alloy Technology Co., Ltd; and,

— The Press Metal Group, composed of two exporting producers: (i) Press Metal International Ltd.; and, (ii) Press Metal International Technology Ltd.

(23) The Commission received questionnaire replies from the four sampled Union producers, the Union producers' association, the two sampled unrelated importers, one user (Alstom Holdings), and two groups of exporting producers: the Haomei Group and the Press Metal Group.

(24) The Liaoning Zhongwang Group did not submit any reply to the questionnaire. In light of the above, on 1 April 2020, the Commission informed the Liaoning Zhongwang Group that it intended to apply the provision of Article 18 of the basic Regulation to it. In that letter, the Commission asked the Liaoning Zhongwang Group to submit its comments on the application of Article 18 no later than 13 April 2020. The Liaoning Zhongwang Group did not submit any comments. The sample was reduced to two groups of exporting producers representing 20,9 % of total exports.

1.8. **Verification visits**

(25) In view of the outbreak of COVID-19 and the confinement measures put in place by various Member States as well as by various third countries, the Commission could not carry out verification visits pursuant to Article 16 of the basic Regulation at provisional stage.

(26) The Commission remotely cross-checked all the information deemed necessary for its provisional determinations. The Commission carried out remote crosschecks ('RCC') of the following companies/parties:

Association of European Producers:

— European Aluminium, Brussels, Belgium

Union producers:

— Constellium Decin s.r.o., Decin, Czechia

— Hydro Extrusion Hungary k.f.t, Székesfehérvár, Hungary

— Impol d.o.o., Slovenska Bistrica, Slovenia

— ST Extruded Products GmbH, Vogt, Germany

Exporting producers in China:

— The Haomei Group; and,

— The Press Metal Group.

1.9. **Claim for the suspension of the investigation**

(27) Airoldi requested that, because of the COVID-19 outbreak, the investigation should be suspended until the situation had improved, as the confinement measures negatively impacted their rights of defence (for instance because they could not have access to their own records, or could not hold hearings with the Commission).

(28) This request could not be accepted. In particular, there is no legal basis in the basic Regulation allowing the Commission to suspend the investigation. In fact, the Commission is subject to binding deadlines to complete the investigation. Therefore, the Commission has no discretion to take such a decision. Recognising the serious difficulties faced by certain co-operating companies, the Commission issued a Notice on the consequences of the COVID-19 outbreak which provides for as much additional flexibility as possible on deadline extensions, taking into account the legal constraints and the need to comply with the applicable deadlines. Moreover, as described in the previous paragraph, the Commission remotely cross-checked the information provided by parties or held videoconference hearings with interested parties in a satisfactory