Commission Implementing Regulation (EU) 2020/1215 of 21 August 2020 making imports of aluminium extrusions originating in the People's Republic of China subject to registration

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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 14(5) thereof,

After informing the Member States,

Whereas:

(1) On 14 February 2020, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union*[(2)] ('the notice of initiation'), the initiation of an anti-dumping proceeding with regard to imports into the Union of aluminium extrusions originating in the People's Republic of China ('PRC') following a complaint lodged on 3 January 2020 by European Aluminium ('the complainant' or 'EA') on behalf of producers representing more than 25 % of the total Union production of aluminium extrusions.

1. PRODUCT SUBJECT TO REGISTRATION

(2) The product subject to registration ('the product concerned') is bars, rods, profiles (whether or not hollow), tubes, pipes; unassembled; whether or not prepared for use in structures (e.g. cut-to-length, drilled, bent, chamfered, threaded); made from aluminium, whether or not alloyed, containing not more than 99,3 % of aluminium ('the product under investigation'), originating in the PRC.

(3) The following products are not covered:

(i) products attached (e.g. by welding or fasteners) to form subassemblies;

(ii) welded tubes and pipes;

(iii) products in a packaged kit with the necessary parts to assemble a finished product without further finishing or fabrication of the parts ('finished goods kit').

(4) The product concerned is currently classified under CN codes ex 7604 10 10, ex 7604 10 90, 7604 21 00, 7604 29 10, 7604 29 90, ex 7608 10 00, 7608 20 81, 7608

20 89 and ex 7610 90 90 (TARIC codes 7604 10 10 11, 7604 10 90 11, 7604 10 90 25, 7604 10 90 80, 7608 10 00 11, 7608 10 00 80, 7610 90 90 10). The CN and TARIC codes are given for information only.

2. REQUEST

(5) On 23 June 2020, the complainant submitted a registration request pursuant to Article 14(5) of the basic Regulation. The complainant requested that imports of the product concerned be made subject to registration so that measures may subsequently be applied against those imports from the date of such registration, provided all conditions set out in the basic Regulation are met.

3. GROUNDS FOR REGISTRATION

(6) According to Article 14(5) of the basic Regulation, the Commission may direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration, provided all conditions set out in the basic Regulation are met. Imports may be made subject to registration following a request from the Union industry, which contains sufficient evidence to justify such action.

(7) According to the complainant, registration is warranted as the product concerned is being dumped. Significant injury to the Union industry is being caused by an increase of imports in terms of market share at low-prices which will undermine the remedial effect of potential definitive duties.

(8) The Commission examined the request in the light of Article 10(4) of the basic Regulation. The Commission verified whether the importers were aware, or should have been aware, of the dumping as regards the extent of the dumping and the injury alleged or found. It also analysed whether there was a further substantial rise in imports which, in the light of its timing and volume and other circumstances, was likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied.

3.1. Awareness of the importers of the dumping, the extent thereof and the alleged injury

(9) As regards dumping, at this stage, the Commission has at its disposal sufficient evidence that imports of the product concerned from the PRC are being dumped.

(10) In particular, the complainant provided evidence of dumping based on a comparison of a constructed normal value on the basis of costs of production and sale reflecting undistorted prices or benchmarks, established in accordance with Article 2(6a)(a) of the basic Regulation, with the export price (at ex-works level) of the product concerned when sold for export to the Union. On that basis the dumping margins calculated are significant for the PRC, that is, up to 37 %.

(11) That information was contained in the notice of initiation.

(12) With respect to this condition, one unrelated importer opposed the requested registration of imports noting that the presence of a history of dumping cannot be established because the investigation is still ongoing.

(13) However, Article 10(4)(c) does not require a history of dumping. Instead, it requires a history of dumping *or* that the importer was aware of, *or* should have been aware of, the dumping.

(14) With the publication of the notice of initiation in the *Official Journal of the European Union*, importers were made aware, or at least should have been aware of the dumping. The notice of initiation is a public document accessible to all interested parties, in particular importers. Furthermore, as interested parties in the investigation, importers have access to the non-confidential version of the complaint. Therefore, the Commission considered that the importers were aware, or should have been aware, of the alleged dumping practices, the extent thereof and the alleged injury at that moment.

(15) The complainant has provided evidence that imports of the product under investigation from the country concerned have increased overall in absolute terms and in terms of market share. The evidence provided by the complainant shows that during the period March to May 2020 the volume and the prices of the imported product concerned have had, among other consequences, a negative impact on the quantities sold and on the level of prices charged as well as on the market share held by the Union industry, resulting in substantial adverse effects on the overall performance of the Union industry.

(16) The Commission thus concluded that the first criterion for registration was met.

3.2. **Further substantial rise in imports**

(17) In its request for registration of imports, the complainant provided evidence of a further substantial rise in imports. For that purpose, the complainant used the methodology outlined in the complaint to calculate import volumes during the period March to May 2020 and compared those quantities with the same months in 2019. In line with the methodology used in the complaint, the CN codes considered were 7604 21 00, 7604 29 10, 7604 29 90, 7608 20 81, 7608 20 89 and ex 7610 90 90. For the latter CN code, the complainant maintained its estimate that 95 % of the volumes under this code were constituted by product concerned.

(18) During the investigation the Commission has analysed whether import volumes from the PRC should be calculated according to the methodology explained above (i.e. the one of the complaint), or whether another methodology may be more appropriate. To this end, comments and information have been requested from interested parties, and DG TAXUD and national customs authorities have been asked to investigate and provide information. The Commission is also examining confidential TARIC data to establish its relevance to the analysis. This part of the anti-dumping investigation is ongoing. In this respect, the Commission noted that imports under the additional CN codes mentioned in the notice of initiation (see also recital 4) were negligible[3]. Therefore, at this stage the Commission considered it appropriate in the

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/1215. (See end of Document for details)*

analysis of this request to examine the increase in imports requirement having regard to the CN codes suggested by the complaint and under two scenarios. The first one considers the methodology outlined in the complaint using six CN codes and the second using the same CN codes mentioned above, but excluding CN code ex 7610 90 90. Both methodologies use 8 digit CN code data in the light of the ongoing analysis.

(19) Using the first methodology (i.e. the one of the complaint), according to the information provided in the request and cross checked by the Commission to data held on the case file, the volume of imports from the PRC into the Union decreased in absolute terms by around 17 % during the period March to May 2020 as compared to the same months in 2019. This appears to be in line with the general reduction of imports and consumption in the period March to May 2020 due to the market circumstances derived from COVID-19. However, the complainant also provided evidence that the Union industry production and sales decreased by 28 % during the same period but, at the same time, the imports originating in the PRC increased from around 10 % in March to May 2019 to around 12 % in March to May 2020, an increase of 20 %. Thus, relative to consumption, the imports from the PRC increased in the period March to May 2020.

(20) In respect of the second methodology, i.e. excluding CN code 7610 90 90, the request contained evidence that import volumes from the PRC decreased in absolute terms by 16 % in March to May 2020 as compared to the same period 2019. As mentioned above the Union industry suffered a fall in production and sales of 28 % as regards the product concerned. These developments have led the market share of the imports originating in China to increase from around 4,9 % in March to May 2019 to around 5,6 % in March to May 2020, an increase of 15 % in relative terms.

(21) With respect to this condition, one unrelated importer opposed to the requested registration of imports noted that the relative rise in imports from the PRC registered in March to May 2020 could be due to the fact that this country's economic activity was disrupted and resumed earlier than the one in the Union. According to the same importer, these extraordinary market conditions might have encouraged importers to expand their level of stocks, taking advantage of the favourable market conditions.

(22) In principle it cannot be excluded that the timing of the Covid-19 related disruptions could have affected certain shipments. However, a 3-month timeframe is long enough to allow for a meaningful assessment of import trends, including when taking into consideration the facts and circumstances pointed out by the importer. Therefore, the Commission considered that the period from March to May 2020 is sufficiently representative for the present analysis.

(23) In addition, the same importer argued that, due to the favourable market conditions, companies with sufficient financial means could have stockpiled imported products. This argument, if confirmed, cannot constitute a reason to oppose the requested registration, but, to the contrary, would further explain and thus confirm the described rise in imports, thereby justifying the registration of imports.

(24) One exporting producer also opposed the request for registration. According to this producer, it is not correct to compare production in Europe with imports, because