Commission Implementing Regulation (EU) 2020/1156 of 4 August 2020 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2018/186 on imports of certain corrosion resistant steels originating in the People's Republic of China to imports of slightly modified certain corrosion resistant steels

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1156

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extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2018/186 on imports of certain corrosion resistant steels originating in the People's Republic of China to imports of slightly modified certain corrosion resistant steels

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 Articles 13(3) and 14(5) thereof,

Whereas:

1. **PROCEDURE**

1.1. **Existing measures**

(1) By Commission Implementing Regulation (EU) 2018/186[(2)] ('the original Regulation'), the Commission imposed a definitive anti-dumping duty on imports of certain corrosion resistant steels originating in the People's Republic of China ('China' or 'the PRC'). The individual anti-dumping duties in force range from 17,2 % to 27,9 %. All non-sampled cooperating exporting producers listed in an Annex to that Regulation received a duty of 26,1 % and all other (non-cooperating) exporting producers are subject to the residual duty of 27,9 %.

(2) These measures will hereinafter be referred to as 'the measures in force' and the investigation that led to the measures imposed by the original Regulation will be hereinafter referred to as 'the original investigation'.

1.2. ***Ex officio*** **initiation**

(3) The Commission had at its disposal sufficient evidence that the measures in force were being circumvented by slight modifications of the product concerned. More specifically, statistics at 10-digit TARIC level showed that a significant change in the pattern of trade involving exports from the People's Republic of China to the Union took place following the imposition of the definitive anti-dumping duty.

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(4) The evidence pointed to the fact that this change stems from the importation of the slightly modified product concerned and that there was no due cause or economic justification other than the imposition of the duty for such practice, process or work.

(5) The evidence available to the Commission pointed to the fact that the remedial effects of the measures in force were being undermined both in terms of quantities and prices.

(6) The Commission also had sufficient evidence at its disposal showing that the exports of the slightly modified product were dumped in relation to the normal value previously established.

(7) Having thus determined, after having informed the Member States, that sufficient prima facie evidence existed for the initiation of an investigation pursuant to Articles 13(3) and 14(5) of the basic Regulation, the Commission decided to investigate the possible circumvention of the measures in force and to make imports of the slightly modified product subject to registration. As a result, the Commission adopted Regulation (EU) 2019/1948[3] (the 'initiating Regulation'), launching on its own initiative an investigation.

1.3. **Product concerned and product under investigation**

(8) The product concerned by the possible circumvention is flat-rolled products of iron or alloy steel or non-alloy steel; aluminium killed; plated or coated by hot dip galvanisation with zinc and/or with aluminium, and no other metal; chemically passivated; containing by weight: 0,015 % or more but not more than 0,170 % of carbon, 0,015 % or more but not more than 0,100 % of aluminium, not more than 0,045 % of niobium, not more than 0,010 % of titanium and not more than 0,010 % of vanadium; presented in coils, cut-to-length sheets and narrow strips.

The following products are excluded:

— of stainless steel, of silicon-electrical steel, and of high-speed steel,

— not further worked than hot-rolled or cold-rolled (cold-reduced).

(9) The product concerned is currently falling under CN codes ex 7210 41 00, ex 7210 49 00, ex 7210 61 00, ex 7210 69 00, ex 7212 30 00, ex 7212 50 61, ex 7212 50 69, ex 7225 92 00, ex 7225 99 00, ex 7226 99 30 and ex 7226 99 70 (TARIC codes: 7210 41 00 20, 7210 49 00 20, 7210 61 00 20, 7210 69 00 20, 7212 30 00 20, 7212 50 61 20, 7212 50 69 20, 7225 92 00 20, 7225 99 00 22, 7225 99 00 92, 7226 99 30 10, 7226 99 70 94) and originating in the People's Republic of China. This is the product to which the original measures apply.

(10) The product under investigation for possible circumvention is flat-rolled products of iron or alloy steel or non-alloy steel; plated or coated by hot dip galvanisation with zinc and/or aluminium and/or magnesium, whether or not alloyed with silicon; chemically passivated; with or without any additional surface treatment such as oiling or sealing; containing by weight: not more than 0,5 % of carbon, not more than 1,1 % of aluminium, not more than 0,12 % of niobium, not more than 0,17

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% of titanium and not more than 0,15 % of vanadium; presented in coils, cut-to-length sheets and narrow strips.

The following products are excluded:

— of stainless steel, of silicon-electrical steel, and of high-speed steel,

— not further worked than hot-rolled or cold-rolled (cold-reduced),

— the product concerned as defined in recital 8 above.

(11) The product under investigation is currently falling under CN codes ex 7210 41 00, ex 7210 49 00, ex 7210 61 00, ex 7210 69 00, ex 7210 90 80, ex 7212 30 00, ex 7212 50 61, ex 7212 50 69, ex 7212 50 90, ex 7225 92 00, ex 7225 99 00, ex 7226 99 30, ex 7226 99 70 (TARIC codes: 7210 41 00 30, 7210 49 00 30, 7210 61 00 30, 7210 69 00 30, 7210 90 80 92, 7212 30 00 30, 7212 50 61 30, 7212 50 69 30, 7212 50 90 14, 7212 50 90 92, 7225 92 00 30, 7225 99 00 23, 7225 99 00 41, 7225 99 00 93, 7226 99 30 30, 7226 99 70 13, 7226 99 70 93), originating in the People's Republic of China.

1.4. **Investigation**

(12) The Commission duly informed the authorities of the PRC, the exporting producers in the PRC known to be concerned and an association of the Union industry of the initiation of the investigation.

(13) Pursuant to Article 3(1) of the initiating Regulation, questionnaires for the exporting producers in the PRC were made available on the website of DG TRADE[(4)].

(14) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that non-cooperation might lead to the application of Article 18 of the basic Regulation and to findings being based on facts available.

(15) Six groups of companies from the PRC and an association of the Union industry, representing the Union industry as defined in the original investigation, made themselves known.

(16) Of the above six groups, only two submitted complete replies to the questionnaires and requested an exemption from the possible extended measures in accordance with Article 13(4) of the basic Regulation:

— Beijing Shougang Cold Rolling Co., Ltd., Shougang Jingtang United Iron & Steel Co., Ltd. and their related traders China Shougang International Trade & Engineering Corp., Shougang Holding Trade (Hong Kong) Limited, and Shougang International (Austria) GmbH ('the Shougang group');

— Bengang Steel Plates Co., Ltd., BX Steel POSCO Cold Rolled Sheet Co. Ltd and their related traders Benxi Iron & Steel Hong Kong Limited, Benxi Iron and Steel Group Europe GmbH, Benxi Iron & Steel (Group) International Economic and Trading Co., Ltd., and Benxi Iron Steel America Limited ('the BSP group').

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(17) In line with the Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations[5], the Commission decided not to carry out verification visits at the premises of the companies that requested an exemption due to the COVID-19 outbreak. Instead, the Commission organised a videoconference with the Shougang group to crosscheck the questionnaire replies submitted by the group.

(18) For the same reasons, another exporter made a written submission instead of attending the requested hearing.

1.5. Reporting period and investigation period

(19) The investigation period covered the period from 1 January 2013 to 30 September 2019 (the 'IP'). For the IP, data were collected to investigate, inter alia, the alleged change in the pattern of trade. For the period from 1 October 2018 to 30 September 2019 (the reporting period or 'the RP'), more detailed data were collected in order to examine the possible undermining of the remedial effects of the measures in force and the existence of dumping.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

(20) Pursuant to Article 13(1) of the basic Regulation, the Commission analysed whether there was a change in the pattern of trade between the product concerned and the slightly modified product originating in the PRC, whether this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than avoiding the imposition of the duty, whether there was evidence of injury or that the remedial effects of the duty were being undermined in terms of prices and/or quantities of the product under investigation, and whether there was evidence of dumping, in accordance with the provisions of Article 2 of the basic Regulation.

2.2. Degree of cooperation

(21) In the notice of initiation, Chinese exporting producers were invited to cooperate and to reply to a questionnaire in order to demonstrate that their exports did not constitute circumvention.

(22) While 19 groups or companies were involved in the original anti-dumping investigation, only two groups of companies requested an exemption and provided the information requested in the current proceeding. These two groups accounted for 14 % of total imports from China declared by the exporting producers during the original anti-dumping investigation but less than 1 % of the total imports of the product under investigation during the RP. The level of cooperation was therefore low.

(23) Based on the questionnaire replies, the information provided by the BSP group was deemed incomplete and unreliable. Therefore, the Commission informed BSP of its intention to disregard the information provided and make its findings with regard to the group on the basis of facts available, pursuant to Article 18 of the basic Regulation.

(24) The BSP group submitted comments on the Commission's intention to use facts available with regard to the group. It did not agree with the Commission conclusion that the group did not provide the necessary information and claimed that it had fully cooperated with the Commission by sending all questionnaire responses and answers to deficiency letters in time.

(25) The BSP group claimed that the application of fact available was not valid because, firstly, the Commission should have requested clarification beforehand on the discrepancy concerning the quantities exported during the original investigation. Secondly, the group claimed that the Product Control Number ('PCN') table would be impossible to establish and the product codes used by the companies could not correspond exactly with the PCN designated by the Commission. Finally, the BSP group claimed that it could not provide the exact chemical composition requested by the Commission, as this was not required by the industry standards and therefore only measured and booked upon specific customer request.

(26) As the BSP group did not bring any evidence altering the conclusions of the Commission, the Commission confirmed its intention to disregard the questionnaire reply of the BSP group and make its findings with regard to the group on the basis of facts available following Article 18 of the basic Regulation.

(27) The exports of the non-cooperating exporters were thus estimated at more than 99 % of the total Chinese exports of the product under investigation to the Union for the reporting period. Hence, for those exports the Commission used facts available in accordance with Article 18 of the basic Regulation.

(28) The Shougang group cooperated and, as set out in section 4 below, was exempted from the extended anti-dumping duties.

2.3. **Change in the pattern of trade**

(29) In order to establish whether there was a change in the pattern of trade, the Commission analysed the volume of imports of the product concerned and the volume of imports of the product under investigation during the investigation period.

(30) The product concerned and the product under investigation fall within the same CN codes, which also include other products (i.e. automotive grades). Specific TARIC codes allowing to determine the actual level of imports were attributed to both products only upon initiation of the respective investigations, i.e. in December 2016 for the product concerned (subject to anti-dumping measures) and in November 2019 for the product under investigation. The Commission had therefore to make estimations of the relevant imports.

(31) For the period from 2013 to 2016, the Commission established the import volume of products excluded from the scope of the anti-dumping measures (mostly automotive grades) falling within the same CN codes as the product concerned based on the evidence provided in the original anti-dumping investigation, i.e. that around