Commission Implementing Regulation (EU) 2019/915 of 4 June 2019 imposing a definitive anti-dumping duty on imports of certain aluminium foil in rolls originating in the People's Republic of China following an expiry review under Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2019/915

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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 11(2) thereof,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) In March 2013, following an anti-dumping investigation ('the original investigation'), the Council imposed by Implementing Regulation (EU) No 217/2013[(2)] ('the definitive Regulation'), a definitive anti-dumping duty on imports of certain aluminium foils in rolls currently falling under CN codes ex 7607 11 11 and ex 7607 19 10 and originating in the People's Republic of China ('the PRC').

(2) The definitive Regulation imposed an anti-dumping duty at rates ranging between 14,2 % and 15,6 % on imports from the sampled cooperating exporting producers, 14,6 % on the non-sampled cooperating companies and a duty rate of 35,6 % on all other exporting producers in the PRC.

1.2. Initiation of an expiry review

(3) On 14 June 2017, the Commission published a notice of impending expiry of the anti-dumping measures in force on the imports of certain aluminium foil in rolls originating in the PRC in the *Official Journal of the European Union*[(3)].

(4) On 14 December 2017, eight Union producers (ALEURO Converting Sp. Z o.o., CeDo Sp. z o.o., Cuki Cofresco SpA, Fora Folienfabrik GmbH, ITS BV, Rul-Let A/S, SPHERE SA and Wrapex Ltd) ('the applicants'), representing more than 40 % of the total production of certain aluminium foil in rolls in the European Union ('the Union'), lodged a request for review under Article 11(2) of the basic Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/915. (See end of Document for details)*

(5) The applicants based their request on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and injury to the Union industry.

(6) Having determined that sufficient evidence existed for the initiation of an expiry review, on 13 March 2018 the Commission published a notice of initiation in the *Official Journal of the European Union*[(4)] ('the Notice of Initiation').

1.3. **Review investigation period and period considered**

(7) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 January 2017 to 31 December 2017 ('the review investigation period' or 'RIP').

(8) The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2014 to the end of the review investigation period ('the period considered').

1.4. **Interested parties**

(9) The Commission invited in the Notice of Initiation all interested parties to contact it in order to participate in the investigation. The Commission specifically informed the applicants, known Union producers and their associations; known importers of certain aluminium foil in rolls in the Union, the authorities in the PRC and known exporting producers in the PRC of the initiation of the expiry review and invited them to cooperate.

(10) All interested parties had the 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. No interested party requested a hearing.

1.5. **Sampling**

(11) In the 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

(12) The Commission stated in the Notice of Initiation that it had provisionally selected a sample of Union producers.

(13) In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of production of the like product, which could reasonably be investigated within the time available.

(14) The provisionally selected sample consisted of three Union producers accounting for around 66 % of the total production volume of the cooperating Union producers. The Commission invited interested parties to comment on the provisional sample and received comments only from Sphere SA, which sought confirmation that

only its production company Sphere France SAS would be included in the sample. The sample was thus found to be representative of the Union Industry.

1.5.2. Sampling of unrelated importers

(15) The Commission invited in the Notice of Initiation importers and their representative associations to make themselves known and to provide specific information necessary to decide whether sampling was necessary and, if so, to select a sample.

(16) No unrelated importer provided the requested information and agreed to be included in the sample. One company replied that it is neither an importer nor user of the product under review.

1.5.3. Sampling of exporting producers in the PRC

(17) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission requested the cooperation of the Mission of the PRC to the European Union to identify and/or contact other producers, if any, that could be interested in participating in the investigation.

(18) Four groups of Chinese producers submitted sampling replies. In view of the low number of replies, the Commission decided that sampling was not necessary and requested all Chinese producers that submitted sampling replies to complete the questionnaire.

1.5.4. Users

(19) The Commission invited in the Notice of Initiation the users and their representative associations, and representative consumer organisations to make themselves known and cooperate. No users in the Union or their associations came forward.

1.5.5. Questionnaires and verification visits

(20) The Commission sent questionnaires to the three sampled Union producers. As mentioned in recital 18 questionnaires were also sent to four groups of producers in the PRC.

(21) The three sampled Union producers submitted a questionnaire reply. However, none of the Chinese producers that had submitted sampling replies subsequently submitted a completed questionnaire response. The Commission informed the exporting producers of the consequences of the lack of cooperation; yet, no exporting producer cooperated in the investigation.

(22) The Commission sought and verified all the information deemed necessary for the determination of a likelihood of continuation or recurrence of dumping and injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following Union producers:

— CeDo Sp. z o.o., Katy Wrocławskie, Poland;

— ITS BV, Apeldoorn, The Netherlands;

— SPHERE SA, Paris, France.

1.6. **Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation**

(23) In view of the sufficient evidence available at the initiation of the investigation tending to show the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission considered it appropriate to initiate the investigation on the basis of Article 2(6a) of the basic Regulation.

(24) Consequently, in order to collect the necessary data for the eventual application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited all exporting producers in the PRC to provide the information requested in Annex III to the Notice of Initiation regarding the inputs used for producing the product under review. Four groups of Chinese producers provided information in this regard.

(25) In order to obtain information it deems necessary for its investigation with regard to the alleged significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission also sent a questionnaire to the Government of the People's Republic of China (‘GOC’). No reply was received from the GOC.

(26) In the Notice of Initiation, the Commission also invited all interested parties to make their views known, submit information and provide supporting evidence regarding the appropriateness of the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of this Notice in the *Official Journal of the European Union*. No submissions or additional evidence were received in that respect from the GOC or the exporting producers.

(27) In the Notice of Initiation, the Commission also specified that, in view of the evidence available, it may need to select an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks.

(28) On 19 April 2018, the Commission published a first note for the file (‘the Note of 19 April 2018’) seeking the views of the interested parties on the relevant sources that the Commission may use for the determination of the normal value. In the Note of 19 April 2018, the Commission provided a list of all factors of production such as materials, energy and labour used in the production of the product under review by the exporting producers. In addition, taking into account the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified, at that stage, Turkey as a potential representative country. The Commission further indicated that it had identified a producer, Sedat Tahir A.S., whose financial statements were publically available and which was producing the product under review in the potential representative country.

(29) The Commission gave the opportunity to all interested parties to comment, within 10 days, but no comments were received.

(30) In a 'Second note on the sources for the determination of the normal value' of 3 October 2018 ('the Note of 3 October 2018'), the Commission confirmed its intention to use Turkey as the representative country, confirmed the specific customs codes and sources of data for the factors of production and confirmed the selling, general and administrative costs ('SG&A') and profit figures relating to the Turkish company Sedat Tahir A.S., which, if appropriate, it intended to use for the construction of normal value.

(31) The Commission gave the opportunity to all interested parties to comment, within 10 days, but no comments were received.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

(32) The product under review is the same as in the original investigation, namely aluminium foil of a thickness of 0,007 mm or more but less than 0,021 mm, not backed, not further worked than rolled, whether or not embossed, in low weight rolls of a weight not exceeding 10 kg, currently falling under CN codes ex 7607 11 11 and ex 7607 19 10 (TARIC codes 7607 11 11 10 and 7607 19 10 10) ('the product under review').

(33) The product under review is generally used as a consumer product for packaging and other household/catering applications ('aluminium household foil').

2.2. Like product

(34) It was considered that the product under review produced in the PRC and exported to the Union, the product produced in the representative country Turkey and the product produced and sold in the Union by the Union industry have the same basic physical and technical characteristics, and the same basic uses. No interested parties commented on the determination of the like product.

(35) The Commission decided that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

(36) The Commission did not receive any claims regarding the product scope.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

3.1. Preliminary remarks

(37) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.

(38) As mentioned in recital 21, none of the Chinese exporting producers cooperated in the investigation. Thus, the exporting producers failed to submit