Commission Implementing Regulation (EU) 2019/688 of 2 May 2019 imposing a definitive countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2019/688

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1037 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)] ('the basic Regulation'), and in particular Article 18 thereof,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) The Council, by Council Implementing Regulation (EU) No 215/2013[(2)], imposed a countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China ('China', 'the PRC', or 'the country concerned'). The countervailing duties currently in force range from 13,7 % to 44,7 % ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.

(2) The Council, by Council Implementing Regulation (EU) No 214/2013[(3)], imposed a definitive anti-dumping duty on imports of certain organic coated steel products originating in China. The anti-dumping duties currently in force range from 0 % to 26,1 %.

(3) The level of the combined duties ranges from 13,7 % to 58,3 %.

1.2. Request for an expiry review

(4) Following the publication of a notice of impending expiry of the countervailing measures in force[(4)], on 13 December 2017 the Commission received a request for the initiation of an expiry review of the countervailing measures pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council ('the basic Regulation').

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2019/688. (See end of Document for details)*

(5) The request was lodged by The European Steel Association ('EUROFER') on behalf of producers representing more than 70 % of the total Union production of certain organic coated steel products ('the applicant').

(6) The applicant claimed that the expiry of the countervailing measures would likely result in the continuation or recurrence of subsidisation and injury to the Union industry.

1.3. **Initiation of an expiry review**

(7) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 14 March 2018, by a notice published in the *Official Journal of the European Union*[(5)] ('the Notice of Initiation'), the initiation of an expiry review of the countervailing measures applicable pursuant to Article 18 of the basic Regulation.

(8) Prior to the initiation of the expiry review, and in accordance with Article 10(7) of the basic Regulation, the Commission notified the Government of China ('GOC') that it had received a properly documented review request and invited the GOC for consultations in accordance with Article 10(7) of the basic Regulation. Consultations were held on 9 March 2018, but no mutually agreed solution could be reached.

1.4. **Parallel investigation**

(9) By a notice published in the *Official Journal of the European Union* on 14 March 2018[(6)], the Commission also announced the initiation of an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council[(7)] of the definitive anti-dumping measures in force with regard to imports into the Union of certain organic coated steel products originating in the PRC.

1.5. **Investigation**

1.5.1. *Review investigation period and period considered*

(10) The investigation of the likelihood of continuation or recurrence of subsidisation covered the period from 1 January 2017 to 31 December 2017 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2014 to the end of the review investigation period ('the period considered').

1.5.2. *Interested parties*

(11) In the Notice of Initiation, the Commission made a call to all interested parties to contact it in order to participate in the investigation. In addition, the Commission individually informed the applicant, the known producers in the Union and their relevant associations, the known exporting producers in China, the known unrelated importers in the Union, unrelated users in the Union known to be concerned, and the

representatives of the exporting country, of the initiation of the expiry review and invited them to participate.

(12) All interested parties were invited to make their views known, submit information and provide supporting evidence within the time limits set out in the Notice of Initiation. Interested parties were also granted the opportunity to request in writing a hearing with the Commission investigation services and/or the Hearing Officer in trade proceedings.

1.5.3. *Sampling*

(13) In its Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 27 of the basic Regulation.

1.5.3.1. Sampling of exporting producers in the PRC

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

(15) Two exporting producers provided the information requested in Annex I to the Notice of Initiation for the purpose of sampling but neither of them produced organic coated steel products as defined in the Notice of Initiation. A third exporting producer made itself known six weeks after the deadline for replies to the sampling form. This exporting producer was given interested party status, but was considered non-cooperating since it never replied to the sampling form or attempted to reply to the exporting producer's questionnaire.

(16) Consequently, the Commission informed the authorities of the PRC by Note Verbale of 18 July 2018, that it might resort to the use of facts available under Article 28(1) of the basic Regulation when examining the continuation or recurrence of subsidisation. The authorities of the PRC did not react to the Note.

1.5.3.2. Sampling of Union producers

(17) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers, in accordance with Article 27 of the basic Regulation. Prior to the initiation, 21 Union producers had provided the information requested for the selection of the sample and expressed their willingness to cooperate with the Commission. On that basis, the Commission provisionally selected a sample of three producers, which were found to be representative of the Union industry in terms of volume of production and sales of the like product in the Union. The sampled Union producers accounted for 28 % of the estimated total production of the Union industry and for 27 % of the total sales volume of the Union industry to unrelated customers in the Union during the review investigation period. The Commission invited interested parties to comment on the provisional sample. No comments were received and the

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provisional sample was thus confirmed. The sample was considered representative for the Union industry.

1.5.3.3. Sampling of importers

(18) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked the nine unrelated importers identified in the request to provide the information specified in the Notice of Initiation. None of them came forward.

1.5.4. *Questionnaires and verification visits*

(19) The Commission sent questionnaires to the three sampled Union producers, the applicant and the GOC. Replies to the questionnaires were received from the three sampled Union producers and the applicant.

(20) The Commission verified all the information it deemed necessary for a determination of the likelihood of a continuation or recurrence of subsidisation and injury, and of the Union interest test. Verification visits were carried out at the premises of the following interested parties:

(a) Union producers:
- ArcelorMittal Belgium, Belgium
- Marcegaglia Carbon Steel SpA, Italy
- Tata Steel Maubeuge SA, France

(b) Association of Union producers:
- EUROFER, Belgium

1.5.5. *Subsequent procedure*

(21) On 22 February 2019, the Commission disclosed the essential facts and considerations on which basis it intended to impose countervailing duties. All parties were granted a period within which they could make comments on that disclosure.

(22) The comments were received only from the applicant. They are addressed in Section 3.3 below.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(23) The product concerned by this expiry review is the same as the one in the original investigation, that is certain organic coated steel products, i.e. flat-rolled products of non-alloy and alloy steel (not including stainless steel) which are painted, varnished or coated with plastics on at least one side, excluding so-called ‘sandwich panels’ of a kind used for building applications and consisting of two outer metal sheets with a stabilising core of insulation material sandwiched between them, excluding those products with a final coating of zinc-dust (a zinc-rich paint, containing by weight 70 % or more of zinc), and excluding those products with a substrate with a metallic coating

of chromium or tin; currently falling within CN codes ex 7210 70 80, ex 7212 40 80, ex 7225 99 00, ex 7226 99 70 (TARIC codes 7210 70 80 11, 7210 70 80 91, 7212 40 80 01, 7212 40 80 21, 7212 40 80 91, 7225 99 00 11, 7225 99 00 91, 7226 99 70 11 and 7226 99 70 91), and originating in China ('the product under review' or 'OCS').

(24) The product under review is obtained by applying an organic coating to flat-rolled steel products. The organic coating provides protection and aesthetic and functional properties to steel products.

(25) The product under review is mainly used in the construction sector and for further processing in products used in construction. Other applications include home appliances.

2.2. **Like product**

(26) No interested parties commented on the like product. Hence, as established in the original investigation, this expiry review investigation confirmed that product produced and sold on the domestic markets of China, and the product produced and sold in the Union by the Union producers have the same basic physical and technical characteristics and end uses. They are therefore considered to be like products within the meaning of Article 2(c) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OF SUBSIDISATION

(27) In accordance with Article 18 of the basic Regulation, and as stated in the Notice of Initiation, the Commission examined first whether the expiry of the existing measures would be likely to lead to a continuation of subsidisation.

3.1. **Non-cooperation and the use of facts available in accordance with Article 28(1) of the basic Regulation**

(28) On 4 June 2018 the Commission sent a questionnaire to the GOC including specific questionnaires for the Export Import Bank of China ('EXIM') and China Export & Credit Insurance Corporation ('Sinosure') based on the fact that they, acting under the GOC's control, had provided loans and financial services to the organic coated steel industry according to the information in the request and/or in the original investigation.

(29) In addition, the GOC was asked to forward a questionnaire for banks and other financial institutions known by the GOC to have provided loans to the industry concerned as well as to the producers and distributors of the hot-rolled and cold-rolled steel providing inputs for the production of the product under review.

(30) The Commission received no reply to those above questionnaires either from the GOC nor EXIM, Sinosure or upstream companies.

(31) By Note Verbale of 18 July 2018, the Commission informed the Chinese authorities that following non-cooperation from the GOC and the Chinese exporting producers of the product under review, as explained in recital (16), the Commission intended to make its findings on the basis of the facts available, in accordance with Article 28(1) of the basic Regulation. They were also informed that a finding based