Commission Implementing Regulation (EU) 2019/59 of 14 January 2019 imposing a definitive anti-dumping duty on imports of aluminium radiators 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 the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2019/59

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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 November 2012, following an anti-dumping investigation ('the original investigation'), the Council imposed by Implementing Regulation (EU) No 1039/2012[(2)] ('the definitive Regulation'), a definitive anti-dumping duty on imports of aluminium radiators currently falling within CN codes ex 7615 10 10, ex 7615 10 80, ex 7616 99 10 and ex 7616 99 90 (TARIC codes 7615 10 10 10, 7615 10 80 10, 7616 99 10 91, 7616 99 90 01 and 7616 99 90 91) and originating in the People's Republic of China ('the PRC').

(2) The definitive Regulation imposed an anti-dumping duty at rates ranging between 12,6 % and 56,2 % on imports from the sampled exporting producers, 21,2 % on the non-sampled cooperating companies and a duty rate of 61,4 % on all other companies in the PRC.

1.2. **Initiation of an expiry review**

(3) On 15 February 2017, the Commission published a notice of impending expiry of the anti-dumping measures on aluminium radiators originating in the PRC in the *Official Journal of the European Union*[(3)].

(4) On 30 June 2017, the International Association of Aluminium Radiator Manufacturers Limited Liability Consortium (AIRAL S.c.r.l.) ('the applicant'), representing more than 25 % of the total production of aluminium radiators in the

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European Union ('the Union'), lodged a request for review under Article 11(2) of the basic Regulation.

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

(6) Having determined that sufficient evidence existed for the initiation of an expiry review, on 9 November 2017 the Commission published a notice of initiation in the *Official Journal of the European Union*[4] ('the Notice of Initiation').

1.3. **Interested parties**

(7) 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 applicant; known Union producers and their associations; known importers of aluminium radiators in the Union; and known exporting producers in the PRC of the initiation of the expiry review and invited them to cooperate.

(8) In the Notice of Initiation, the Commission stated that it envisaged using Russia as a market economy third country ('analogue country') within the meaning of Article 2(7) of the basic Regulation. The Commission also stated that according to the information available to it, other market economy producers may be located in Turkey, Taiwan, Malaysia, Iran, Argentina and Ukraine.

(9) The Commission informed producers in Russia about the initiation and invited them to participate. The Commission also notified the authorities in Argentina, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Iran, Japan, Malaysia, Russia, Switzerland, Taiwan, the USA, Turkey and Ukraine of the initiation of the investigation and requested information on production and sales of aluminium radiators and contact details of any relevant producers in those countries.

(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.

1.3.1. *Sampling*

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

1.3.1.1. 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 sales that could be investigated in the time available.

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(14) The provisionally selected sample consisted of four Union producers accounting for around 80 % of the total sales of the Union industry. The Commission invited interested parties to comment on the provisional sample and no comments were received.

1.3.1.2. Sampling of 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. Two importers came forward. Due to this limited number of companies, sampling was not considered necessary.

1.3.1.3. Sampling of exporting producers

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

(17) No exporting producers from the PRC provided the information requested in Annex I to the Notice of Initiation for the purpose of sampling.

1.3.2. *Users*

(18) 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.

1.3.3. *Questionnaires and verification visits*

(19) The Commission sent questionnaires to all parties listed below and to all other companies that made themselves known within the deadlines set out in the Notice of Initiation.

(20) This included the four sampled Union producers, the applicant, the two cooperating importers and producers in Argentina, Iran, Japan, Malaysia, Russia, Switzerland, Taiwan, the former Yugoslav Republic of Macedonia, Turkey and Ukraine.

(21) Questionnaire replies were received from the four sampled Union producers, one importer, the applicant and a producer in Ukraine.

(22) The Commission sought and verified all the information it deemed necessary for the determination of the likelihood of continuation or recurrence of dumping and injury; and to determine whether maintaining the anti-dumping measures would not be against the Union interest.

(23) Verification visits were carried out at the premises of the following companies:

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(a) Union producers:
- Fondital, Brescia, Italy
- Global Radiatori, Brescia, Italy
- Radiatori 2000, Bergamo, Italy
- Armatura, Kraków, Poland

(b) Importers in the Union:
- Hydroland, Kraków, Poland

(c) Producer in an analogue country
- San Teh Raj, Odessa, Ukraine.

1.4. **Review investigation period and period considered**

(24) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 October 2016 to 30 September 2017 ('the review investigation period' or 'RIP').

(25) 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').

2. PRODUCT CONCERNED AND THE LIKE PRODUCT

2.1. **Product concerned**

(26) The product concerned by the expiry review is the same product as the one defined in the original investigation, that is aluminium radiators and elements or sections of which such radiator is composed, whether or not such elements are assembled in blocks, excluding radiators and elements and sections thereof of the electrical type, currently falling within CN codes ex 7615 10 10, ex 7615 10 80, ex 7616 99 10 and ex 7616 99 90 (TARIC codes 7615 10 10 10, 7615 10 80 10, 7616 99 10 91, 7616 99 90 01 and 7616 99 90 91) and originating in the PRC ('the product concerned').

2.2. **Like product**

(27) The investigation showed that the following products have the same basic physical and technical characteristics as well as the same basic uses:
- the product concerned
- the product produced and sold on the domestic market of Ukraine, which served as an analogue country
- the product produced and sold in the Union by the Union industry.

(28) The Commission concluded that these products are like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

3.1. **Likelihood of continuation or recurrence of dumping**

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(29) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether dumping was currently taking place and whether dumping was likely to continue or recur upon a possible expiry of the measures in force on imports from the PRC.

3.1.1. *Analogue country*

(30) In accordance with Article 2(7) of the basic Regulation, normal value shall be determined on the basis of the price or constructed value in a market economy third country. For this purpose a market economy third country had to be selected ('the analogue country').

(31) In the Notice of Initiation, the Commission informed interested parties that it envisaged Russia as an appropriate analogue country and invited interested parties to comment. No comments were received.

(32) The Commission asked 60 producers of the like product in Argentina, Iran, Japan, Malaysia, Russia, Switzerland, Taiwan, the former Yugoslav Republic of Macedonia, Turkey and Ukraine to provide information.

(33) The Commission received only one reply, namely from one producer in Ukraine (San Teh Raj).

(34) As no other reply was received, and since the Ukrainian market is considered to be an appropriate representative market for this purpose on the basis of its market size, it was decided that Ukraine is an appropriate analogue country under Article 2(7) of the basic Regulation.

3.1.2. *Normal Value*

(35) The information received from the cooperating producer in the analogue country was used as a basis for the determination of the normal value for the PRC, pursuant to Article 2(7) of the basic Regulation.

(36) The Commission first examined whether the total volume of domestic sales of the analogue country producer was representative. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market represented at least 5 % of the total export sales volume of the product concerned to the Union during the review investigation period. On this basis, the total sales by the analogue country producer were representative.

(37) According to information received from the applicant, there is no clear basis to determine the product type on the basis of the five TARIC codes covered by the investigation. Indeed, the product description of all five TARIC codes is identical, namely '*Aluminium radiators and elements or sections of which such radiator is composed, whether or not such elements are assembled in blocks*'. No further differentiation is made at the TARIC level. The difference between the five TARIC codes is caused by other criteria, such as the end-use and the production method. For example, if a radiator is for domestic use, it falls under tariff heading 7615. If the same