Commission Implementing Regulation (EU) 2018/1684 of 8 November 2018 imposing a definitive anti-dumping duty on imports of lever arch mechanisms originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1684

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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. Previous investigations and measures in force

(1) By Council Regulation (EC) No 1136/2006[(2)], the Council imposed an anti-dumping duty on imports of lever arch mechanisms ('LAM') originating in the People's Republic of China ('PRC') ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.

(2) By Council Implementing Regulation (EC) No 796/2012[(3)], the Council, following an expiry review in accordance with Article 11(2) of Regulation (EC) No 1225/2009[(4)], re-imposed the definitive anti-dumping measures on imports of LAM originating in the PRC (the 'previous expiry review').

1.2. Request for an expiry review

(3) Following the publication of a notice of impending expiry[(5)] the Commission received a request for review pursuant to Article 11(2) of Regulation (EU) 2016/1036 (the basic Regulation).

(4) The request for review was lodged on 30 May 2017 by the Lever Arch Mechanism Manufacturers Association ('the applicant') on behalf of three Union producers representing about 95 % of the total Union production of LAM. The request

for review was based 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.

1.3. **Initiation**

(5) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 1 September 2017, by a notice published in the *Official Journal of the European Union*[6] ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

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

(6) The investigation of continuation or recurrence of dumping covered the period from 1 July 2016 to 30 June 2017 ('review investigation period'). 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').

1.5. **Interested parties**

(7) In the Notice of Initiation, the Commission invited all interested parties to participate in the investigation. In addition, the Commission officially advised the applicant, the other known Union producers, the exporting producers in the PRC, importers/users which were known to be concerned, as well as the authorities of the PRC the initiation of the expiry review.

(8) 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 by the Commission investigation services and/or the Hearing Officer in trade proceedings.

1.5.1. *Sampling*

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

1.5.1.1. *Sampling of exporting producers in the PRC*

(10) In view of the apparent large number of exporting producers in the PRC, sampling was envisaged in the Notice of Initiation.

(11) To decide whether sampling was necessary 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. The information requested included production volume and production capacity. In addition, the Commission requested 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.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/1684. (See end of Document for details)*

(12) None of the 33 Chinese exporters/producers that were contacted or any other Chinese exporter/producer came forward and provided the information requested.

1.5.1.2. *Sampling of Union producers*

(13) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. Pursuant to Article 17 of the basic Regulation, the sample was selected on the basis of sales volume of the like product. The sample consisted of three Union producers. The sampled Union producers accounted for more than 75 % of the estimated total production of the Union industry and for more than 75 % 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 provisional sample was thus confirmed. The sample was considered representative for the Union industry.

1.5.1.3. *Sampling of unrelated importers*

(14) In order to enable the Commission to decide whether sampling was necessary and, if so, to select a sample, all unrelated importers were invited to participate in this investigation. Those parties were requested to make themselves known by providing the Commission with the information on their companies requested in Annex II of the Notice of Initiation.

(15) In addition, 26 importers identified in the review request were contacted by the Commission at initiation stage and were invited to explain their activity and to fill Annex II of the Notice of Initiation.

(16) None of the importers came forward and made itself known to the Commission.

1.5.2. *Questionnaires*

(17) The Commission sent questionnaires to the three sampled Union producers and to three users that were identified in the review request.

(18) Questionnaires were also sent to 38 producers in potential market economy third countries namely in Cambodia, India, Iran, Japan, Switzerland, Thailand and Ukraine. None of the producers in any of the potential analogue countries provided the Commission with a complete questionnaire reply.

(19) The three sampled Union producers submitted a questionnaire reply. None of the users provided a questionnaire reply.

(20) As mentioned in recital (12), none of the Chinese exporting producers cooperated and provided a questionnaire reply.

1.5.3. *Verification visits*

(21) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. Verification visits were carried out at the premises of the following companies:

Union producers:

— IML, Offanengo, Italy

— NIKO, d.o.o., Železniki, Slovenia

— INTERKOV spol. s.r.o., Benešov nad Ploučnici, Czech Republic.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

(22) The product under review is the same as in the original investigation namely, LAM generally used for archiving sheets and other documents in binders or files. These LAM consist of arched sturdy metal elements (normally two) on a back plate and having at least one opening trigger that permits inserting and filing of sheets and other documents originating in the PRC ('product under review'), currently falling within CN code ex 8305 10 00 (TARIC code 8305 10 00 50).

2.2. Like product

(23) It was considered that the product under review produced in the PRC and exported to the Union and the product produced and sold in the Union by the Union industry have the same basic physical and chemical characteristics, and the same basic uses. They were therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

(24) 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.

3.1. Preliminary remarks

(25) As mentioned in recitals (12) and (20), none of the Chinese exporters/producers cooperated in the investigation. Therefore, the Commission informed the Chinese authorities that due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to the PRC. The Commission did not receive any comments or requests for an intervention of the Hearing Officer from the Chinese authorities in this regard.

(26) Consequently, in accordance with Article 18(1) of the basic Regulation, the findings in relation the likelihood of continuation or recurrence of dumping were based on facts available, in particular publicly available information such as official company websites, information in the request for review, and information obtained from

cooperating parties in the course of the review investigation (namely, the applicant and the sampled Union producers).

3.2. **Dumping**

(27) For the purpose of establishing normal value, the Notice of Initiation made reference to the use of an analogue country. Alternatively, if there was no cooperation from any appropriate analogue country, the Commission envisaged using the prices actually paid or payable in the Union for the purpose of establishing normal value. Interested parties were invited to comment on the appropriateness of this basis for establishing normal value. No comments were received in this respect.

(28) As concerns the export price, due to the lack of cooperation from exporting producers in the PRC and unrelated importers in the Union market, the Commission was unable to establish any export sales quantities or prices on a transactional basis. In this respect, the Commission considered alternative means to determine the export price.

(29) Firstly, it was considered whether Eurostat or other statistical data such as the data reported to the Commission by the Member States in accordance with Article 14(6) of the basic Regulation ('Article 14(6) database'), cross-checked with other available data, could be used as an alternative means to establish export prices. Eurostat was however unsuitable because the import statistics also covered imports other than the product under review. Similarly, the Article 14(6) database did not allow for the possibility to compare export prices with those of the Union industry on a type-per-type basis. Also, the TARIC or the Article 14(6) database record volume of LAM in kilograms while the normal value is based on pieces.

(30) Secondly, the Commission also considered having recourse to the export prices contained in the request for review. It is recalled that this methodology was used in the previous expiry review mentioned in recital (2) and that it, in principle, also permits a comparison on a type-per-type basis. However, the invoices contained in the request for review were for export prices to other third countries.

(31) Accordingly, no dumping calculation could be made on the basis of export prices to the Union and it was not possible to establish an affirmative determination of dumping. The investigation therefore focused on the likelihood of a recurrence of dumping.

3.3. **Likelihood of recurrence of dumping**

(32) As regards the investigation of the likelihood of recurrence of dumping, the following elements were analysed: the relationship between normal value and export prices to third countries; production capacity, production and spare capacity in the PRC; and the attractiveness of the Union market in relation to imports from the PRC.

3.3.1. *Relationship between the normal value and export prices to third countries*