Commission Implementing Regulation (EU) 2017/2206 of 29 November 2017 imposing a definitive anti-dumping duty on hand pallet trucks and their essential parts 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) 2017/2206

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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 existing measures

(1) In July 2005, by Regulation (EC) No 1174/2005[(2)] the Council imposed a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts ('hand pallet trucks') originating in the People's Republic of China ('the PRC' or 'China'). The measures consisted of an *ad valorem* anti-dumping duty ranging between 7,6 % and 46,7 % ('the original measures').

(2) In July 2008, by Regulation (EC) No 684/2008[(3)] the Council, following an *ex officio* partial interim review under Article 11(3) of the basic Regulation, clarified the scope of the measures and excluded certain products, high lifters, stackers, scissor lifts and weighing trucks, that were found to be distinct from hand pallet trucks due to their characteristics and specific functions and end-uses, from the original anti-dumping measures.

(3) In June 2009, by Regulation (EC) No 499/2009[(4)] the Council, following an anti-circumvention investigation under Article 13 of the basic Regulation, extended the definitive anti-dumping duty applicable to 'all other companies' imposed by Regulation (EC) No 1174/2005 to hand pallet trucks consigned from Thailand whether declared as originating in Thailand or not.

(4) In October 2011, by Implementing Regulation (EU) No 1008/2011[(5)], the Council, following an expiry review pursuant to Article 11(2) of the basic Regulation,

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imposed a definitive anti-dumping duty on imports of hand pallet trucks originating in the PRC.

(5) In April 2013, by Implementing Regulation (EU) No 372/2013[(6)], the Council, following an interim review pursuant to Article 11(3) of the basic Regulation, amended Regulation (EU) No 1008/2011, and imposed a duty rate of 70,8 % applicable to all imports into the Union of hand pallet trucks originating in the PRC.

(6) In September 2014, by Implementing Regulation (EU) No 946/2014[(7)], the Commission, following a new exporter review pursuant to Article 11(4) of the basic Regulation, amended Regulation (EU) No 1008/2011, imposing an individual duty rate of 54,1 % on imports of hand pallet trucks from Ningbo Logitrans Handling Equipment Co.

(7) In August 2016, by Implementing Regulation (EU) 2016/1346[(8)] the Commission, following an anti-circumvention investigation under Article 13 of the basic Regulation, extended the definitive anti-dumping duties in force to imports of slightly modified hand pallet trucks incorporating a weight indication system not integrated in the chassis (the forks) originating in the PRC.

(8) The measures currently in force are a definitive anti-dumping duty on the importation of hand pallet trucks and their essential parts originating in the PRC consisting of an *ad valorem* duty established at 70,8 %.

1.2. **Request for an expiry review**

(9) Following the publication of a notice of impending expiry[(9)] of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of the measures in force against the PRC pursuant to Article 11(2) of the basic Regulation.

(10) The request was lodged by two Union producers, Toyota Material Handling Manufacturing Sweden AB and PR Industrial S.r.l. ('the applicants'), representing more than 25 % of the total Union production of hand pallet trucks and their essential parts.

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

1.3. **Initiation of an expiry review**

(12) 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 12 October 2016, by a notice published in the *Official Journal of the European Union*[(10)] ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

1.4. **Parallel investigation for possible circumvention**

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(13) On 19 July 2017, by Implementing Regulation (EU) 2017/1348[(11)], the Commission initiated an investigation concerning the possible circumvention of the anti-dumping measures in force by imports of hand pallet trucks and their essential parts consigned from Vietnam, whether declared as originating in Vietnam or not, in accordance with Article 13 of the basic Regulation.

1.5. **Investigation**

1.5.1. *Interested parties*

(14) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the applicants, other known Union producers, the known exporting producers, the Chinese authorities, known importers and users about the initiation of the investigation and invited them to participate.

(15) Interested parties had an opportunity to make their views known and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within the time limits set out in the Notice of Initiation.

1.6. **Analogue country**

(16) In the Notice of Initiation, the Commission informed interested parties that it envisaged Brazil as a third market economy country (‘analogue country’) within the meaning of Article 2(7)(a) of the basic Regulation. Interested parties had an opportunity to comment on this choice. No comments were received.

(17) The Commission contacted the Brazilian authorities and informed the two known producers of hand pallet trucks in Brazil about the initiation and invited them to participate. One of the producers in Brazil was willing to cooperate. No other known producer, nor any other Brazilian producer, replied.

(18) The Commission also sought cooperation from known producers in other potential analogue countries and contacted the relevant authorities in Cambodia, India, Malaysia, Taiwan, Turkey and the USA inviting them to provide the names and addresses of producers' association and producers that are known to produce and sell hand pallet trucks on their market. However, none of the contacted countries provided such information and no producer from these countries was willing to cooperate.

(19) As mentioned in recital 17 above, cooperation was only received from Brazil where one of the two large producers in the country was found willing to cooperate. In any event, after further examination of the available market information, Brazil is considered an appropriate analogue country also for its competitive market. The existence of genuine competition is evidenced by the presence of at least two domestic producers and the facts of imports. Brazil has no anti-dumping measures in place and despite a normal MFN import duty of 14 %, the Brazilian market was considered to be open for imports, as publicly available import data from ITC[(12)] show for the years from 2012 to 2016. The investigation revealed no indications that Brazil would not be

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an appropriate choice given its competitive market situation. Brazil was thus selected as an analogue country.

1.7. **Sampling**

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

1.7.1. *Sampling of exporting producers in the PRC*

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

(22) To decide whether sampling would be necessary and, if so, to select a sample, exporting producers in the PRC were requested to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of initiation. However, none of the exporting producers came forward. Sampling was therefore not necessary.

1.7.2. *Sample of importers*

(23) In view of the apparent large number of unrelated importers, it was considered appropriate, in accordance with Article 17 of the basic Regulation, to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of initiation. However, no unrelated importers came forward to cooperate. Sampling was therefore not necessary.

1.7.3. *Sample of Union producers*

(24) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. According to the request for review, there are six producers of hand pallet trucks in the Union. Five Union producers came forward in the context of the standing exercise. One additional Union producer was known at the time of initiation. These six Union producers represent the entire Union production. The Commission intended to investigate all six producers and no sampling was applied. The Commission informed all interested parties accordingly and invited them to comment. No comments were received within the deadline.

1.8. **Questionnaires**

(25) Questionnaires were sent to the six known Union producers and two producers of hand pallet trucks in Brazil. The Commission received replies to the questionnaire from five Union producers and one producer of hand pallet trucks in Brazil.

(26) None of the users supplied the Commission with any information or made themselves known in the course of the investigation.

1.9. **Verification visits**

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

Union producers:

— PR Industrial S.r.l., Casole d'Elsa, Italy

— Toyota Material Handling Manufacturing Sweden AB, Mjölby, Sweden

— Logitrans A/S — Denmark, Ribe, Denmark

— ZAKREM Sp. z o.o., Grajewo, Poland

— VMH — Material Handling s. r. o., Veľký Šariš, Slovakia

Producer in the analogue country:

— Paletrans Equipamentos, Cravinhos, Brazil

1.10. **Investigation period and period considered**

(28) The investigation of dumping and injury covered the period from 01 October 2015 to 30 September 2016 (‘the review investigation period’ or ‘RIP’). The examination of trends relevant for the assessment of injury covered the period from 01 January 2013 to the end of the investigation period (‘the period considered’).

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

(29) The product subject to this review is hand pallet trucks and their essential parts, i.e. chassis and hydraulics, currently falling within CN codes ex 8427 90 00 (TARIC codes 8427 90 00 11, 8427 90 00 13 and 8427 90 00 19) and ex 8431 20 00 (TARIC codes 8431 20 00 11, 8431 20 00 13 and 8431 20 00 19), originating in the People's Republic of China. The anti-dumping measures on this product were extended to the same product but presented at import with a so-called ‘weight indication system’ consisting of a weighing mechanism not integrated in the chassis, that is to say not integrated in the forks, currently falling within TARIC codes 8427 90 00 30 and 8431 20 00 50 (‘the product under review’). The product definition above was updated in accordance with the corrigendum to Commission Implementing Regulation (EU) 2016/1346 of 8 August 2016[13].

(30) The investigation confirmed that, as in the original investigation, the product under review and the products manufactured and sold on the domestic market in the PRC, the products manufactured and sold on the analogue country market, as well as those manufactured and sold in the Union by the Union producers, have the same basic physical and technical characteristics as well as the same uses and are, 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

3.1. **Preliminary remarks**