Commission Implementing Regulation (EU) 2017/1480 of 16 August 2017 imposing a provisional anti-dumping duty on imports of certain cast iron articles originating in the People's Republic of China

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THE EUROPEAN COMMISSION,

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

Having regard to (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)], and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 10 December 2016, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of certain articles of lamellar graphite cast iron (grey iron) or spheroidal graphite cast iron (also known as ductile cast iron), and parts thereof ('cast iron articles') originating in the People's Republic of China ('the PRC') and in India ('the countries concerned') on the basis of Article 5 of Regulation (EU) 2016/1036 ('the basic Regulation').

(2) The Commission published a Notice of Initiation in the *Official Journal of the European Union*[(2)] ('the Notice of Initiation').

(3) The Commission initiated the investigation following a complaint lodged on 31 October 2016 by seven Union producers, namely Fondatel Lecompte SA, Ulefos Niemisen Valimo Oy Ltd, Saint-Gobain PAM SA, Fonderies Dechaumont SA, Heinrich Meier Eisengießerei GmbH & Co. KG, Saint-Gobain Construction Products UK Ltd and Fundiciones de Odena SA ('the complainants'). The complainants represent more than 40 % of the total Union production of cast iron articles. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Interested parties

(4) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission

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specifically informed the complainants, other known Union producers, the known exporting producers and the authorities of the PRC and India, and known importers about the initiation of the investigation and invited them to participate.

(5) Interested parties had an 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.

(6) In the Notice of Initiation, the Commission informed interested parties that it had provisionally chosen India 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 and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

(7) An association named Free Castings Imports representing 19 importers submitted comments after the initiation of the investigation ('association of unrelated importers'). In addition, several Indian exporting producers, the Indian industry, and the China Chamber of Commerce for Import and Export of Machinery and Electronic products ('CCCME') submitted comments after the initiation of the proceeding.

(8) Some interested parties argued that the complaint lacked the necessary level of *prima facie* evidence to result in the initiation of an investigation, as it did not provide complete and factual evidence for its claims and no data was given on the cost of production and domestic prices of Chinese exporting producers. They argued that those data are necessary in order to initiate an investigation against a market economy country such as the PRC.

(9) The Commission carried out an examination of the complaint in accordance with Article 5 of the basic Regulation, coming to the conclusion that the requirements for initiation of an investigation were met, i.e. that the adequacy and accuracy of the evidence presented by the complainant was sufficient. It is recalled that, according to Article 5(2) of the basic Regulation, a complaint shall contain such information as is reasonably available to the complainant, such as reports and publicly available statistics. Finally, pursuant to Article 2(7) of the basic Regulation, the normal value contained in the complaint on the basis of analogue country data constituted sufficient *prima facie* evidence for initiating the investigation. This claim was therefore rejected.

(10) The Commission therefore concluded that the complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.3. **Sampling**

(11) In its Notice of Initiation, the Commission stated that it might sample exporting producers, Union producers and unrelated importers in accordance with Article 17 of the basic Regulation.

1.3.1. *Sampling of Union producers*

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(12) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of the highest representative sales volumes of the like product in the investigation period whilst ensuring a spread in product types and a geographical spread.

(13) This sample consisted of three Union producers, EJ Picardie, Saint-Gobain PAM SA, and Heinrich Meier Eisengießerei GmbH & Co. KG. The sampled Union producers accounted for 48 % of the total production volume and 43 % of total sales of the Union industry. The Commission invited interested parties to comment on the provisional sample.

(14) The complainants submitted a request to include a fourth Union producer, Fondatel Lecomte. As the complainants did not substantiate their request, the Commission rejected it.

(15) Some interested parties argued that the proposed sample did not give an accurate representation in terms of geographical location of producers or the Union producers' position with respect to the complainants. The proposed sample did only include complainants and a supporter of the complaint, while not including Union producers in the Member States mostly affected by the alleged dumped imports from the PRC or Union producers from Central and Eastern European countries.

(16) The Commission noted that the sample included the largest markets for the product concerned and the largest producers in terms of volume and sales on the Union market which could reasonably be investigated within the time available.

(17) Indian exporting producers argued that the sample of Union producers is not representative, as it includes companies that are themselves importers of the allegedly dumped product.

(18) The Commission noted that indeed one of the sampled Union producers imports the product concerned in order to complete its product range. The Commission found that the imported quantity is much smaller than the quantity produced by this company as it represents less than 15 % of its total Union sales and therefore considers that the sampled Union producer is representative of the Union industry.

(19) In light of the above, the Commission confirmed that the sample is representative of the Union industry.

1.3.2. *Sampling of importers*

(20) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.

(21) Twenty-eight unrelated importers provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three unrelated importers on the basis of the largest volume of imports into the Union. In accordance with Article 17(2) of the

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basic Regulation, all known importers concerned were consulted on the selection of the sample. No comments were received.

1.3.3. *Sampling of exporting producers in the PRC*

(22) To decide whether sampling is 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 asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(23) Eighty-one exporting producers in the PRC provided the requested information and agreed to be included in the sample. The Commission found seventy-eight exporting producers/groups of exporting producers to be admissible to the sample. Three producers reported no exports of the product concerned to the EU during the investigation period and therefore were not considered admissible to the sample. The Commission provisionally selected a sample of three cooperating producers on the basis of the largest representative volume of exports to the Union. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the PRC, were consulted on the selected sample. Some interested parties invited the Commission to expand its sample in order to improve its representativeness. The Commission took these comments into account. The definitive sample included the five largest exporting producers to the Union which could reasonably be investigated within the time available. The Mission of the People's Republic of China to the European Union expressed its support on the final sample.

1.3.4. *Sampling of exporting producers in India*

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

(25) Twenty-two exporting producers/groups of exporting producers in India provided the requested information and agreed to be included in the sample. The Commission found 21 exporting producers/groups of exporting producers to be admissible to the sample. One producer reported no exports of the product concerned to the EU during the investigation period and therefore was not considered admissible to the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three groups of companies on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of India, were consulted on the selection of the sample.

(26) The Commission received comments from two exporting producers that selection of only three groups of companies on the basis of the largest representative

volume of exports to the Union is not representative of the significant diversity present in the Indian market. As the three provisionally selected groups of companies represented substantial part of exports from India to the EU during the investigation period and could reasonably be investigated within the time available, the Commission confirmed the provisional sample.

1.4. **Individual examination**

(27) For the PRC, eighteen non-sampled exporting producers formally requested individual examination under Article 17(3) of the basic Regulation. The examination of such a high number of requests would be unduly burdensome and cannot be reasonably expected during the time available for this investigation. The Commission has therefore decided that it will not grant any individual examinations.

(28) For India, none of the non-sampled exporting producers/groups of exporting producers requested individual examination under Article 17(3) of the basic Regulation.

1.5. **Market economy treatment ('MET') claim forms**

(29) For the purposes of Article 2(7)(b) of the basic Regulation, the Commission sent MET claim forms to all cooperating exporting producers in the PRC selected to be in the sample and to the non-sampled cooperating exporting producers that wished to apply for an individual dumping margin. Only one of the exporting producers in the PRC selected in the sample submitted an MET claim form, which was assessed by the Commission.

1.6. **Replies to the questionnaire**

(30) The Commission sent questionnaires to all sampled companies, to all exporting producers intending to ask individual examination and to ten potential analogue country producers.

(31) The Commission received questionnaire replies from the three sampled Union producers, three unrelated importers, the five sampled exporting producers in the PRC, eighteen exporting producers in the PRC requesting an individual examination, the three sampled groups of exporting producers in India, and three analogue country producers.

1.7. **Verification visits**

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

Representative of the complainants:

— Heuking Kühn Lüer Wojtek, Brussels, Belgium;

Union producers:

— Saint-Gobain PAM SA, Pont-à-Mousson, France;

— EJ Picardie, Saint-Crépin-Ibouvillers, France;

— Heinrich Meier Eisengießerei GmbH & Co, Rahden, Germany;