Commission Implementing Regulation (EU) 2017/1188 of 3 July 2017 imposing a definitive anti-dumping duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of the Regulation (EU) 2016/1036 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1188

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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) Following an anti-dumping investigation ('the original investigation'), by Implementing Regulation (EU) No 451/2011[(2)], the Council imposed a definitive anti-dumping duty on imports of certain coated fine paper originating in the People's Republic of China ('the PRC' or 'country concerned').

(2) Following an anti-subsidy investigation, by Implementing Regulation (EU) No 452/2011[(3)], the Council also imposed a definitive countervailing duty on imports of certain coated fine paper originating in the PRC.

(3) The anti-dumping measures took the form of an *ad valorem* duty rate ranging from 8 % to 35,1 % for imports from individually named exporters, with a residual duty rate of 27,1 %.

(4) On 8 August 2011, the Chinese producers Gold East Paper Co. Ltd and Gold Huasheng Paper Co. Ltd ('the APP Group'), lodged applications for annulment of both Implementing Regulations (EU) No 451/2011 and (EU) No 452/2011 insofar as they concern the applicants[(4)]. On 11 September 2014, the Third Chamber of the General Court dismissed both actions.

1.2. Request for an expiry review

(5) Following the publication of a notice of impending expiry[(5)] of the anti-dumping measures in force on the imports of certain coated fine paper originating in the

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PRC, the Commission received a request for the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

(6) The request was lodged by five Union producers (Arctic Paper Grycksbo AB, Burgo Group SpA, Fedrigoni SpA, Lecta Group and Sappi Europe SA), jointly referred to as the 'applicant', representing more than 25 % of the total Union production of coated fine paper.

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

1.3. **Initiation of an expiry review**

(8) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 13 May 2016, by notice published in the *Official Journal of the European Union*[(6)] ('the Notice of Initiation') the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

Parallel investigation

(9) By a notice published in the *Official Journal of the European Union* on 13 May 2016[(7)], the Commission also announced the initiation of an expiry review pursuant to Article 18 of Council Regulation (EC) No 597/2009[(8)] of the definitive countervailing measures in force with regard to imports into the Union of certain coated fine paper originating in the People's Republic of China.

1.4. **Investigation**

Review investigation period and period considered

(10) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 January 2015 to 31 December 2015 (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 2012 to the end of the review investigation period (the 'period considered').

Parties concerned

(11) 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 applicant, other known Union producers, exporting producers, importers and users in the Union known to be concerned, as well as the Chinese authorities of the initiation of the expiry review, and invited them to participate.

(12) The Commission also stated that it envisaged using the United States of America ('the USA') as a third market economy country ('analogue country') within the meaning of Article 2(7)(a) of the basic Regulation, the same country used as the analogue country in the original investigation. Therefore, the Commission informed the authorities and the producer in the USA about the initiation and invited them to participate.

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(13) In addition, the Commission notified the authorities in Brazil, India, Indonesia, Japan, Korea, Norway, and Switzerland of the initiation of the investigation and requested information on production and sales of coated fine paper in those countries. Letters were then sent to all known producers of coated fine paper in these countries, asking for their cooperation with the review and enclosing an analogue country questionnaire.

(14) Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limits set out in the Notice of Initiation. All interested parties, who requested so, were granted a hearing with the Commission.
Sampling

(a) Sampling of exporting producers in the PRC

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

(16) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known 36 exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission requested 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.

(17) One Chinese exporting producer provided the information requested in Annex I to the Notice of Initiation for the purpose of sampling[(9)]. However, at a hearing on 8 June 2016 the same group of exporting producers informed the Commission that it did not intend to provide a reply to the questionnaire. This was explained by no exports sales to the Union market during the review investigation period and the complex group structure. All known exporting producers concerned, and the authorities of the PRC were informed about the consequences of non-cooperation and that in accordance with Article 18 of the basic Regulation, the Commission may make its findings on the basis of the best facts available.

(b) Sampling of Union producers

(18) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. 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 and production, taking also into account the geographical spread. The preliminary sample consisted of three groups of Union producers. The Commission invited interested parties to comment on the provisional sample. One of the provisionally sampled Union producers informed the Commission that it would not be in a position to reply to the questionnaire. The Commission also received a clarification that two other sampled parties were groups consisting of several producers. Accordingly, the Commission revised the sample by replacing the non-cooperating producer with the next largest producer in terms of the volume of sales and production, as well as by selecting the largest producers within the other two groups of provisionally

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sampled producers. Having received no comments on the revised sample within the deadline, the Commission confirmed the sample as revised. The final sample accounted for over 30 % of the total Union production during the review investigation period and was therefore considered representative of the Union industry.

(c) Sampling of unrelated importers

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

(20) The Commission contacted five potential importers, but none replied to the sampling form.

Analogue country

(21) In the Notice of Initiation, the Commission informed interested parties that it envisaged the USA as possible analogue country and invited parties to comment. The USA was used in the original investigation as an appropriate analogue country.

(22) The Commission requested producers of the like product in the USA, Brazil, India, Indonesia, Japan, Norway, South Korea and Switzerland to provide information. One producer in the USA cooperated with the investigation by replying to the questionnaire.

(23) The investigation showed that the USA had a competitive market for CFP with around 50 % of the market supplied by local production and the rest by imports from third countries. Although there are anti-dumping duties in force against the PRC and Indonesia, other producing countries can export freely into the USA.

(24) It is therefore concluded that, as in the original investigation, the USA constituted to be an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

Questionnaires

(25) The Commission did not send a questionnaire to the non-cooperating Chinese exporting producer referred to in recital (17) above, as it had already stated that it would not reply.

(26) The Commission sent questionnaires to the three sampled Union producers and to all known analogue country producers.

(27) The Commission received questionnaire replies from the three sampled Union producers and one producer in the analogue country (the USA).

Verification visits

(28) The Commission sought and verified all the information deemed necessary in the context of an expiry review for a determination of dumping, injury, and Union interest. Verification visits under Article 16 of the basic Regulation were carried out at the premises of the following companies:

(a) Union producers

— Burgo Group S.p.A., Altavilla Vicentina, Italy

— Condat (Lecta Group), Barcelona, Spain

— Sappi Europe SA, Brussels, Belgium for Sappi Austria Produktions GmbH&Co KG, Gratkorn, Austria

(b) Producer in the analogue country

— S.D. Warren Company d/b/a Sappi Fine Paper North America, Boston, Massachusetts, USA.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(29) The product concerned is certain coated fine paper ('CFP') which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheet or rolls, and with a weight of 70 g/m^2 or more but not exceeding 400 g/m2 and brightness of more than 84 (measured according to ISO 2470-1), and originating in the PRC ('the product under review'), currently falling within CN codes ex 4810 13 00, ex 4810 14 00, ex 4810 19 00, ex 4810 22 00, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10 and ex 4810 99 80 (TARIC codes 4810 13 00 20, 4810 14 00 20, 4810 19 00 20, 4810 22 00 20, 4810 29 30 20, 4810 29 80 20, 4810 99 10 20 and 4810 99 80 20).

(30) The product concerned does not include:

— Rolls suitable for use in web-fed presses. Rolls suitable for use in web-fed presses are defined as those rolls which, if tested according to the ISO test standard ISO 3783:2006 concerning the determination of resistance to picking — accelerated speed method using the IGT tester (electric model), give a result of less than 30 N/m when measuring in the cross-direction of the paper (CD) and a result of less than 50 N/m when measuring in the machine direction (MD).

— Multi-ply paper and multi-ply paperboard.

2.2. Like product

(31) 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 by the exporting producers on the domestic market of the PRC

— the product produced and sold by the selected producer in the USA, which served as an analogue country

— the product produced and sold in the Union by the Union industry

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