Commission Implementing Regulation (EU) 2017/1187 of 3 July 2017 imposing a definitive countervailing duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1187

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union[(1)] ('the basic Regulation'), and in particular Article 18 thereof,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) Following an anti-subsidy investigation ('the original investigation'), by Implementing Regulation (EU) No 452/2011[(2)], the Council imposed a definitive countervailing 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-dumping investigation, by Implementing Regulation (EU) No 451/2011[(3)], the Council also imposed a definitive anti-dumping duty on imports of certain coated fine paper originating in the PRC.

(3) The countervailing measures took the form of an *ad valorem* duty rate ranging from 4 % to 12 % for imports from individually named exporters, with a residual duty rate of 12 %.

(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 Regulation (EU) No 451/2011 and Implementing Regulation (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 countervailing measures in force on the imports of certain coated fine paper originating

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in the PRC, the Commission received a request for the initiation of an expiry review pursuant to Article 18 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 continuation of subsidisation 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 18 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 11(2) of Council Regulation (EC) No 1225/2009[(8)] of the definitive anti-dumping measures in force with regard to imports into the Union of certain coated fine paper originating in the People's Republic of China.

(10) Prior to the initiation of the expiry review, and in accordance with Articles 10(7) and 33(a) of the basic Regulation, the Commission notified the Government of China ('GOC') that it had received a properly documented review request and invited the GOC for consultations with the aim of clarifying the situation as regards the content of the review request and arriving at a mutually agreed solution. The GOC accepted the offer for consultations and consultations were subsequently held on 11 May 2016. During the consultations, due note was taken of the comments submitted by the authorities of the PRC. However, no mutually agreed solution could be reached.

1.4. **Investigation**

Review investigation period and period considered

(11) The investigation of the likelihood of continuation or recurrence of subsidisation 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

(12) 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.

(13) 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

(14) In the Notice of Initiation, the Commission stated that it might sample interested parties, in accordance with Article 27 of the basic Regulation.

(15) 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.

(16) Only one group of exporting producers in the PRC provided the information requested in Annex I to the Notice of Initiation for the purpose of sampling[9]. 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.

(17) 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 28 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 27(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 sampled producers. Having received no comments on the revised sample within the deadline, the Commission confirmed the sample as revised. The final sample accounted

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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.

Questionnaires

(a) Questionnaire — Government of China

(21) On 13 May 2016 the Commission sent a questionnaire to the Government of China ('the GOC') including specific questionnaires for the China Development Bank, Export Import Bank of China ('EXIM'), Agricultural Bank of China and China Export & Credit Insurance Corporation ('Sinosure') based on the fact that they had provided loans and financial services to the coated fine paper industry according to the information in the request and/or in the original investigation. In addition, the GOC was asked to forward a questionnaire for banks to any other financial institutions known by the GOC to have provided loans to the industry concerned.

(22) On 24 June 2016 the Commission received the reply to the questionnaire from the GOC. The Commission did not receive a reply from any of the listed above financial institutions.

(23) On 2 September 2016 the Commission sent a deficiency letter to the GOC. The GOC requested an extension of the deadline to reply to this deficiency letter. On 23 September 2016 the GOC informed the Commission that it decided not to submit its response to the deficiency letter and confirmed that it will no longer cooperate in the investigation.

(24) By Note Verbale of 7 October 2016 the Commission informed the authorities of the PRC that following non-cooperation of the GOC, in accordance with Article 28 of the basic Regulation, the Commission intended to make its findings on the basis of the best facts available. It also noted that a finding based on facts available may be less favourable than if the GOC had cooperated.

(b) Questionnaire — Exporting producers

(25) No questionnaire was sent to the exporting producers which have not replied to the Commission's request in the Notice of Initiation. The Commission did not send a questionnaire to the Chinese exporting producer referred to in recital (16) above either, as it had indicated that it would not reply.

(c) Questionnaire — Union producers

(26) The Commission sent questionnaires to the three sampled Union producers and received questionnaire replies from all three of them.

Verification visits

(27) The Commission sought and verified all the information deemed necessary in the context of an expiry review for a determination of subsidisation, injury, and Union interest. Verification visits under Article 26 of the basic Regulation were carried out at the premises of the following Union companies:

— 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

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(28) 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/m2 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).

(29) 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

(30) 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 in the Union by the Union industry

(31) The Commission concluded that these products are like products within the meaning of Article 2(c) of the basic Regulation.