Commission Implementing Regulation (EU) 2017/1019 of 16 June 2017 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain concrete reinforcement bars and rods originating in the Republic of Belarus

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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 9(4) thereof,

Whereas:

A. PROCEDURE

1. Provisional Measures

(1) The European Commission ('the Commission') initiated on 31 March 2016[(2)] an investigation following a complaint lodged on 15 February 2016 by the European Steel Association ('EUROFER' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of rebars.

(2) The Commission imposed on 20 December 2016 a provisional anti-dumping duty on imports of certain concrete reinforcement bars and rods originating in the Republic of Belarus ('Belarus' or 'the country concerned') by Implementing Regulation (EU) 2016/2303[(3)] ('the provisional Regulation').

2. Subsequent procedure

(3) Subsequent to the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed ('the provisional disclosure'), the complainant and the sole Belarusian exporting producer made written submissions making known their views on the provisional findings. The parties who so requested were granted an opportunity to be heard.

(4) Hearings took place with the Belarusian exporting producer and with Union producers.

(5) The Commission considered the oral and written comments submitted by the interested parties and, where appropriate, modified the provisional findings.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/1019. (See end of Document for details)*

(6) In order to verify the questionnaires replies mentioned in recitals (124) and (133) of the provisional Regulation, which were not verified at the provisional stage of the procedure, verification visits were carried out at the premises of the following parties:

a) Unrelated importer in the Union:

— Duferco Deutschland GmbH, Germany

b) Union users:

— ATG Deutschland GmbH, Germany

— Tilts Ltd, Latvia

(7) The Commission informed all parties of the essential facts and considerations on the basis of which it intends to impose a definitive anti-dumping duty on imports of rebars ('the definitive disclosure'). All parties were granted a period within which they could make comments on the definitive disclosure. After definitive disclosure, in the light of the findings as established in recitals (18) to (24) of the General Disclosure Document the Commission analysed injury indicators excluding data pertaining to the Italian market for which all parties were informed (the additional final disclosure). Subsequently, all parties were granted a period within which they could make comments on the additional disclosure. The comments submitted by the interested parties were considered and taken into account where appropriate.

3. **Sampling**

(8) In the absence of comments concerning the method of sampling, the provisional findings set out in recitals (7) to (10) of the provisional Regulation are confirmed.

4. **Investigation period and period considered**

(9) In the absence of comments concerning the investigation period ('IP') and the period considered, the periods established in recital (14) of the provisional Regulation are confirmed.

B. PRODUCT CONCERNED AND LIKE PRODUCT

(10) As set out in recitals (15) to (16) of the provisional Regulation, the product subject to investigation was defined as 'certain concrete reinforcement bars and rods, made of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot-extruded, but including those twisted after rolling and also those containing indentations, ribs, grooves or other deformations produced during the rolling process, originating in Belarus and currently falling within CN codes ex 7214 10 00, ex 7214 20 00, ex 7214 30 00, ex 7214 91 10, ex 7214 91 90, ex 7214 99 10, ex 7214 99 71, ex 7214 99 79 and ex 7214 99 95 ('rebars' or 'the product concerned'). High fatigue performance iron or steel concrete reinforcing bars and rods are excluded'.

(11) Already at provisional stage of the investigation, the exporting producer from Belarus pointed to an alleged inconsistency between the complaint (referring to two CN

codes) and the notice of initiation (NoI) (referring to nine CN codes). After explanations given in this regard in the provisional regulation, the Belarussian exporter changed the nature of its claim and requested the inclusion of an additional sentence in the descriptive part of the product concerned in order to make it clear that round bars and other types of bars without indents, ribs or other deformations, which are also covered by the additional seven CN codes, are not included in the product concerned.

(12) On the other hand, contrary to the claim of the Belarusian company, the complainant claimed that round bars and other bars without deformation should be included in the product scope.

(13) After careful examination, the Commission concludes that the descriptive part of definition of the product concerned in the complaint and in the NoI clearly does not encompass round bars and bars without deformation and, therefore, these bars fall outside the product scope. Furthermore, all the data concerning product concerned collected for the dumping calculations and injury analysis did not include data referring to the round bars or bars without deformation. Therefore, the definition of the product scope should make it clear that round bars and bars without deformation are not part of the product concerned. Hence, the Commission accepts the changes in the description of the product concerned suggested by the Belarusian exporting producer. During this assessment, the Commission verified that the CN codes ex 7214 99 71 and ex 7214 99 79 referred exclusively to round bars and bars without deformation and, therefore, excluded the reference made to them in the definition of the product scope. The Commission also noticed that these bars had been incorrectly included in the information set out in recitals (62), (63), (65) and (103) of the provisional Regulation (Union consumption, volume and market share of the imports concerned, prices of imports, and imports from third countries) and therefore this data was revised accordingly.

(14) Taking into account the above, the Commission clarifies the definition of the product concerned as followed:

> The product concerned is certain concrete reinforcement bars and rods, made of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot-extruded, whether or not twisted after rolling, containing indentations, ribs, grooves or other deformations produced during the rolling process, originating in Belarus and currently falling within CN codes ex 7214 10 00, ex 7214 20 00, ex 7214 30 00, ex 7214 91 10, ex 7214 91 90, ex 7214 99 10 and ex 7214 99 95 (‘the product concerned’). High fatigue performance iron or steel concrete reinforcing bars and rods and other long products, such as round bars are excluded.

C. DUMPING

(15) In the absence of comments concerning details of dumping calculation, the provisional findings and conclusions set out in recitals (19) to (55) of the provisional Regulation are confirmed.

D. UNION INDUSTRY

(16) In the absence of any comments concerning the Union industry, the provisional findings and conclusions set out in recitals (56) to (59) of the provisional Regulation are confirmed.

E. **INJURY**

(17) As mentioned in the recitals (13) and (14), the round bars and bars without deformation are not part of the product concerned. These products are currently falling within CN codes ex 7214 99 71 and 7214 99 79. The revised information presented in the tables, as set out in recitals (62), (63) and (65) of the provisional Regulation, is as follows:

1. **Union consumption**

	2012	**2013**	**2014**	**IP**
Consumption (in tonnes)	9 308 774	8 628 127	9 239 505	9 544 273
Index (2012 = 100)	*100*	*93*	*99*	*103*

2. **Volume and market share of the imports concerned**

	2012	**2013**	**2014**	**IP**
Volume (tonnes)	159 395	140 970	236 109	457 755
Index (2012 = 100)	*100*	*88*	*148*	*287*
Market share on EU consumption (%)	1,8	1,6	2,6	4,8
Index (2012 = 100)	*100*	*95*	*149*	*280*
Prices of imports				
Average price (in EUR/tonne)	495	463	436	372
Index (2013 = 100)	*100*	*93*	*88*	*75*

(18) The correction of the figures above did not have any impact on the injury assessment. Indeed, the trends observed were the same and therefore the Commission's findings in recitals (62) to (66) of the provisional Regulation are confirmed.

3. Unreliability of certain injury data of the Union industry as a result of price-fixing

(19) As described in recital (132) of the provisional Regulation, the Belarusian exporting producer and one of the non-sampled Union importers raised the issue of alleged price-fixing among the Union producers, which would have rendered the injury data unreliable. This claim was further developed by the Belarusian company in its submission after provisional disclosure. The Belarusian exporting producer indicated that a cartel investigation was currently being conducted by Italian Competition Authority (Autorità Garante della Concorrenza e del Mercato ('AGCM')) with regard to certain companies located in Northern Italy. One of the companies concerned is part of the sample of the Union producers in the current antidumping investigation.

(20) Following this claim, the Commission requested relevant information from AGCM to evaluate whether and to what extent those facts influence the reliability of the injury data of the Union industry in the present anti-dumping proceedings.

(21) According to the case-law, in a situation where an investigation into anti-competitive behaviour is pending at a national competition authority, the Commission has to consider whether the Union industry, through this behaviour, has contributed to the injury suffered and establish that the injury on which it bases its conclusions did not derive from the anticompetitive behaviour. The Commission may in such a situation not wait until the competent national authority concludes its investigation, but has to request the relevant information from the parties and the national authorities, as appropriate, under the procedural rules for anti-dumping investigations and carry out an assessment of that information[(4)].

(22) Following a request based on Article 6(3) of the basic Regulation, AGCM has informed the Commission that on 21 October 2015 it opened a formal investigation with respect to six Italian producers of concrete reinforcement bars and welded wire for an alleged infringement of Article 101 TFEU[(5)]. One of these companies is the Italian sampled producer in the current anti-dumping investigation. AGCM extended the proceedings in September 2016 to also cover under the investigation two additional Italian producers. Following the in-depth assessment of all available information, AGCM issued a Statement of Objections that was communicated to the relevant companies on 18 January 2017. The anti-competitive conduct being investigated concerns an alleged exchange of information and price collusion between the eight Italian companies that would cover several phases of the value added chain of their activities from the purchase of inputs, through the levels of production capacity and effective production, up to the sale of the output, which would have taken place over the period 2010 to 2016. On account of its supply and demand side characteristics, the relevant geographic market was defined as national in the formal decision to launch the investigation.

(23) The information submitted by AGCM shows that the product concerned in this investigation, rebars, overlaps with the products subject to the antitrust investigation, and also that the alleged cartel was in force during the whole investigation period. In