Commission Implementing Regulation (EU) 2017/648 of 5 April 2017 imposing a definitive anti-dumping duty on imports of okoumé plywood 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) 2017/648

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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:

A. PROCEDURE

1. Measures in force

(1) Following an anti-dumping investigation ('the original investigation'), the Council imposed, by means of Regulation (EC) No 1942/2004[(2)] a definitive anti-dumping duty on imports of okoumé plywood originating in the People's Republic of China ('the PRC' or 'China' or 'country concerned'). The measures took the form of an *ad valorem* duty and the duty levels imposed ranged from 6,5 % to 23,5 % for four producers and 66,7 % for all other producers. Following an expiry review, these measures were maintained by Council Implementing Regulation (EU) No 82/2011[(3)] (the 'previous review').

2. Request for an expiry review

(2) Following the publication of a notice of impending expiry[(4)] of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of the measures against the PRC pursuant to Article 11(2) of the Council Regulation (EC) No 1225/2009[(5)] ('the expiry review request' or 'the request').

(3) The request was lodged on 22 October 2015 by the European Panel Federation ('EPF') ('the applicant') on behalf of producers representing more than 25 % of the total Union production of okoumé plywood. The request is 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.

3. Initiation of an expiry review

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/648. (See end of Document for details)*

(4) 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 29 January 2016, by a notice published in the *Official Journal of the European Union*[6] ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009.

4. Investigation

4.1. *Review investigation period and period considered*

(5) The investigation of the likelihood of continuation or recurrence of dumping and injury 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 a continuation or recurrence of injury covered the period from 1 January 2012 to the end of the review investigation period (the 'period considered').

4.2. *Parties concerned by the investigation*

(6) The Commission officially advised the applicants, the other known Union producers, the exporting producers in the PRC, importers/users which were known to be concerned, as well as the authorities of the PRC of the initiation of the expiry review.

(7) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation.

4.3. *Sampling*

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

4.3.1. Sampling of exporting producers in the PRC

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

(10) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known 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.

(11) Since only two companies in the PRC came forward, sampling was not necessary.

4.3.2. Sampling of Union producers

(12) 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 production, taking also into account the sales volume and

geographical spread. The sample consisted of five Union producers. The sampled Union producers accounted for around 74 % of the total Union production during the RIP. The Commission invited interested parties to comment on the provisional sample. No comments were received within the deadline and the provisional sample was thus confirmed. The sample is considered representative for the Union industry.

4.3.3. Sampling of unrelated importers, questionnaires and cooperation

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

(14) Around 35 known potential importers/users were contacted at initiation stage and were invited to explain their activity and to fill in the sampling form for unrelated importers attached to the Notice of Initiation, if applicable.

(15) Thirteen importers submitted the sampling form. All of them indicated that they did not import okoumé plywood from China. On this basis, sampling was not considered warranted.

4.4. *Questionnaires and verification visits*

(16) The Commission sought and verified all the information deemed necessary for the purpose of determining the likelihood of continuation or recurrence of dumping, the likelihood of continuation or recurrence of injury and Union interest.

(17) The Commission sent questionnaires intended for exporting producers to two companies in the PRC mentioned in recital (11), twelve known producers in potential analogue countries (Gabon, Morocco, Switzerland and Turkey), and the five sampled Union producers.

(18) Only one company in the PRC replied partly to the questionnaire while full questionnaire replies were received from, two producers in Gabon, one producer in Morocco and five sampled Union producers.

(19) The Commission carried out verifications at the premises of the following companies:

(a) Union producers:
- F.A. MOURIKIS SA (Greece),
- GARNICA PLYWOOD SA (Spain),
- JEAN THÉBAULT SAS (France),
- JOUBERT LES ELIOTS SAS (France),
- JOUBERT ST-JEAN-D'ANGÉLY SAS (France).

(b) Producer in the market economy country
- CEMA BOIS DE L'ATLAS (Morocco)

4.5. *Disclosure*

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/648. (See end of Document for details)*

(20) On 13 February, the Commission disclosed to all interested parties the essential facts and considerations on the basis of which it intends to maintain the anti-dumping measures in force and invited all interested parties to comment. No comments were submitted.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(21) The product concerned is the same as in the original investigation and is defined as follows: plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé not coated by a permanent film of other materials, originating in the PRC, currently falling within CN code ex 4412 31 10 (TARIC code 4412 31 10 10). The product concerned is used for a wide variety of end-uses. It is used in the building industry in exterior joinery and carpentry applications for boarding, shutter boards, exterior basements and balustrades and riverside panelling. It is also used for more decorative purposes in, inter alia, road transports (e.g. cars, coaches, caravans, camping cars), maritime transport (yachts), furniture industry and doors.

(22) There are two main types of okoumé plywood, plywood made solely with okoumé (‘full okoumé’) and plywood with at least one of the outer faces made of okoumé, the rest being made of other wood (‘faced okoumé’) (the latter can also be referred to as ‘combi’ or ‘twin’). Both main types of okoumé plywood have the same external appearance. Despite differences in mechanical properties, they all share the same basic physical and technical characteristics, and are used for the same basic purposes.

2. Like product

(23) The investigation showed that the following products have the same physical and technical characteristics as well as the same basic uses:

— the product concerned,

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

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

C. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

1. Preliminary remarks

(25) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.

(26) As mentioned above in recital (18) only one company in the PRC replied partly to the questionnaire. This company reported that it was not producing nor selling okoumé plywood during the period considered.

(27) In view of the lack of cooperation of any other producer in the PRC, the Commission informed the Chinese authorities that in accordance with Article 18 of the basic Regulation facts available may be used. The Commission did not receive any comments or requests for an intervention of the Hearing Officer from the Chinese authorities.

(28) On this basis, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping set out below were based on facts available, in particular:

(i) information in the expiry review request;

(ii) Eurostat statistics and the data collected by Member States pursuant to Article 14(6) of the basic Regulation ('14(6) database');

(iii) publicly available statistics of the Food and Agriculture Organisation of the United Nations ('FAO').

The Chinese export statistics database could not be used as its coding structure was not precise enough to provide useful information.

(29) Eurostat and 14(6) database indicated no imports of the product concerned from the PRC during the RIP; therefore dumping could not be established during this period in the Union market.

(30) Dumping calculations were performed in the context of the likelihood of recurrence of dumping.

2. **Development of imports should measures be repealed**

(31) In order to establish the likelihood of recurrence of dumping should measures be repealed, the following elements were analysed: (i) possible dumping levels in the Union market and in other third countries; (ii) production and production capacity in China; and (iii) attractiveness of the Union market.

(32) In accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of recurrence of dumping set out below were based on facts available, namely the sources mentioned in the recital (28).

(i) ***Possible dumping levels in the Union market and other third countries***

Analogue country

(33) Four exporting producers were granted market economy treatment (MET) in the original investigation. According to Article 2(7)(a) of the basic Regulation, normal value for the remaining exporting producers shall be determined on the basis of the price or constructed value in a market economy third country. For this purpose, a market economy third country had to be selected ('the analogue country').