Commission Implementing Regulation (EU) 2016/2303 of 19 December 2016 imposing a provisional anti-dumping duty on imports of certain concrete reinforcement bars and rods originating in the Republic of Belarus

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imposing a provisional anti-dumping duty on imports of certain concrete reinforcement bars and rods originating in the Republic of Belarus

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)], and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 31 March 2016, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of certain concrete reinforcement bars and rods originating in the Republic of Belarus ('Belarus' or 'the country concerned') on the basis of Article 5 of Council Regulation (EC) No 1225/2009[(2)] ('the basic Regulation'). The relevant Notice of Initiation was published in the *Official Journal of the European Union*[(3)] ('the Notice of Initiation').

(2) The Commission initiated the investigation following a complaint lodged on 15 February 2016 by the European Steel Association ('the complainant') on behalf of producers representing 44 % of the total Union production of certain concrete reinforcement bars and rods. No other producer expressing either opposition or neutral position had come forward.

(3) Therefore, the relevant thresholds as set out in the Article 5(4) of the basic Regulation[(4)] were met at the time of the initiation of the case. Once the investigation is opened, it is not necessary that the conditions for standing are met throughout the entire investigation. The Court has confirmed this for the situation where a company withdraws its support for the complaint[(5)]; the same reasoning applies by analogy in a situation where the product scope changes.

1.2. Interested parties

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/2303. (See end of Document for details)*

(4) In the Notice of Initiation, the Commission invited interested parties to come forward in order to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the one known Belarusian exporting producer and the authorities of the Republic of Belarus as well as known importers and users 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.

1.3. **Analogue country producers**

(6) In the Notice of Initiation, the Commission also informed interested parties that it envisaged South Africa or the United States of America ('the USA') as a third market-economy country ('the 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.

1.4. **Sampling**

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

1.4.1. *Sampling of Union producers*

(8) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers on the basis of production and sales volume of the product under investigation and geographic location. This sample consisted of five Union producers. The sampled Union producers accounted for 22,4 % of the total Union production and 24,4 % of the total Union sales of the product concerned. The companies are located in France, Germany, Italy, Poland and Spain, covering a broad geographic variety. The Commission invited interested parties to comment on the provisional sample. No comments were received. Therefore, it was concluded that the sample is representative of the Union industry.

1.4.2. *Sampling of unrelated importers*

(9) In order to decide whether sampling is necessary and, if so, to select a sample, the Commission requested unrelated importers to provide the information specified in the Notice of Initiation.

(10) Six 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 importers on the basis of the largest volume of imports into the Union. The three sampled companies accounted for 80 % of the unrelated imports of the product concerned originating in Belarus. In accordance with Article 17(2) of the basic Regulation, all known importers concerned were consulted on the selection of the sample. No comments were received.

1.5. **Replies to the questionnaire**

(11) The Commission sent questionnaires to the five sampled Union producers, the cooperating exporting producer in the country concerned, one producer in the USA, selected as the analogue country as explained in recital 32 below, three sampled importers, eight users known at the moment of initiation of the investigation and to one additional user who made itself known at a late stage of the procedure.

(12) Questionnaire replies were received from five sampled Union producers, the cooperating exporting producer in the country concerned, one producer in the USA ('the analogue country') and two unrelated importers.

1.6. **Verification visits**

(13) 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:

(a) *Union producers*

— Celsa Huta Ostrowiec sp. z.o.o., Ostrowiec Swietokrzyski, Poland,

— Feralpi Sideruglica SpA, Lonato del Garda, Italy,

— Riva Acier SA, Gargenville, France,

— Certain macro data were also verified at the premises of the complainant (Brussels, Belgium);

(b) *Exporting producer in Belarus*

— Open Joint-Stock Company 'Byelorussian Steel Works — Management Company of "Byelorussian Metallurgical Company" Holding', Belarus ('BMZ');

(c) *Traders related to the exporting producer*

— Bel Kap Steel LLC, Miami (Fl), the USA,

— BMZ Polska Sp. z.o.o., Katowice, Poland,

— UAB 'Prekybos namai BMZ-Baltija', Šiauliai, Lithuania;

(d) *Producer in an analogue country*

— Commercial Metals Company, Dallas (TX), the USA.

1.7. **Investigation period and period considered**

(14) The investigation of dumping and injury covered the period from 1 January 2015 to 31 December 2015 ('the investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2012 to the end of the investigation period ('the period considered').

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/2303. (See end of Document for details)*

(15) 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, 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 ('the product concerned'). High fatigue performance iron or steel concrete reinforcing bars and rods are excluded.

2.2. **Like product**

(16) The investigation showed that the product concerned and the product produced and sold on the domestic market of the USA, as well as the product produced by the Union industry and sold on the Union market have the same basic physical, chemical and technical characteristics and uses. They are therefore provisionally considered to be alike within the meaning of Article 1(4) of the basic Regulation.

2.3. **Claims regarding product scope**

(17) The Belarusian exporting producer pointed to an alleged inconsistency in the product scope description between the complaint (referring to two CN codes) and the Notice of Initiation (referring to nine CN codes). It was claimed that for that reason the injury assessment in the complaint does not refer to the same scope as in the subsequent initiated proceeding. It further noted that the company only exported under the two CN codes mentioned in the complaint.

(18) The complaint indeed mentioned two CN codes in the product description while the Notice of Initiation listed nine of them. The Commission notes that the CN codes provided in the Notice of Initiation are given for information purposes only, as clearly stated. It further notes that the investigation was opened based on the description of the product concerned provided in the complaint which in substance covers nine CN codes regardless of the reference and, therefore, the additional CN codes had no impact on the evidence provided in the Complaint. Therefore this claim of alleged inconsistency in the product description was rejected.

3. **DUMPING**

3.1. **General remarks**

(19) According to Article 2(7)(a) of the basic Regulation, Belarus is not considered as a market-economy country. Therefore, the normal value in respect of Belarusian exports to the Union was determined on the basis of data obtained from a producer in a market-economy third country.

(20) During the IP, imports from Belarus totalled around 488 000 tonnes with a market share of about 5 %. The main importing Member States were Germany, Lithuania, Poland and the Netherlands. The only known Belarusian manufacturer cooperated with the investigation and replied to the questionnaire. This manufacturer

sold the product concerned to the Union directly or via related traders established in the Union and the USA.

3.2. **Normal value**

3.2.1. *Analogue country*

(21) According to Article 2(7)(a) of the basic Regulation, normal value was 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').

(22) As mentioned in recital 6, in the Notice of Initiation, the Commission had informed interested parties that it envisaged South Africa or the USA as a market-economy third for the purpose of establishing the normal value.

(23) Comments on the proposed analogue countries were received from the sole Belarusian cooperating exporting producer. It claimed that neither South Africa nor the USA was an appropriate choice as an analogue country because, among other reasons, the production capacity, the actual production output, the production process in South Africa and the USA was different in comparison with the Belarusian producer. Moreover, this party claimed that the domestic producers in South Africa and the USA identified by the complainants were directly related to Union producers. Therefore, the objectiveness of the data collected in these countries from such producers may be questionable. This party proposed that Russia would constitute the most appropriate choice as the analogue country since the Russian steel bar industry has the most similar level of development compared to that of Belarus, production process is also based on metal scrap and the steel bar produced is similar in terms of quality and technical specifications. However, the Commission noted that the party did not provide any evidence, showing that South Africa or the USA producers were not using metal scrap for producing the product concerned or that in their cost structure the raw materials did not represent 60 %-70 % of the cost of production. In any event the Commission investigated the appropriateness of South Africa and the USA (as well as Brazil) as an analogue country. The details of these analyses were set out in recitals 28 to 34.

(24) With the aim of selecting the market-economy third country, the Commission contacted all known producers not only in South Africa and the USA but also in Turkey, Ukraine, the Russian Federation, Bosnia and Herzegovina, Mexico, Korea, the Dominican Republic, Norway and Switzerland. The commission requested information regarding their domestic market and to report the type of products produced, the production capacity, the production output, the volume of domestic sales, to describe the production process, the type of raw material used, the share of raw materials, energy and labour costs in the total manufacturing costs of the product concerned, and finally their willingness to cooperate with the investigation.

(25) In addition, the authorities of the above mentioned third countries were contacted.